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DECISIONS

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OF THE

STATE OF CALIFORNIA

VOLUME XXII

JULY 8, 1922, TO FEBRUARY 6, 1923

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 10681.

IN THE MATTER OF THE APPLICATION OF A. J. ARNAUDON FOR AUTHORITY TO INSTALL METERS IN WATER SERVICE AT MENDOTA, CALIFORNIA.

Application No. 7728.

Decided July 8, 1922.

F. E. Cook, for Applicant.

BY THE COMMISSION.

OPINION.

A. J. Arnaudon, applicant in this proceeding, is the owner of a water system at Mendota, Fresno County, which has been operating as a public utility in the distribution and sale of water since the year 1912. Service rendered has been on a flat rate schedule and request is now made for authority to install meters and to establish a schedule of meter rates.

A public hearing in this proceeding was held at Mendota before Examiner Satterwhite. All consumers were duly notified and given an opportunity to appear and be heard.

This water system consists of a six-inch well about 600 feet deep, an electrically operated two-inch centrifugal pump, which elevates the water to an 8000-gallon storage tank, from which it is distributed to consumers by means of about 2900 feet of pipe of three-inch diameter and less. Twenty-one consumers are served.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented a report which set forth an estimate of the original cost of the water system amounting to $3,742. This sum would be increased to $4,057 if meters were installed on all services. Depreciation annuity, computed by the sinking fund method at six per cent, was shown as $95, and reasonable maintenance and operating expense was estimated at $312 per annum.

Based upon the foregoing items, annual charges are as follows:

Return at 8 per cent upon $4,057	$325 00
Depreciation annuity	95 00
Maintenance and operating expense	312 00
Total	$732 00

Revenues for the year 1921 were $422 and it does not appear that any material increase in the number of consumers can be expected in

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the near future. It is evident that rates sufficiently high to return the full amount of the annual charges set out above would be unduly burdensome upon the consumers. The schedule of rates set out in the accompanying order is therefore designed to produce a sum which, it is believed, will cover maintenance and operating expense, depreciation annuity and a reasonable return upon the investment.

No objection to the installation of a schedule of meter rates was made by consumers and there was no complaint as to the service rendered by the utility. The applicant admitted, however, that at times the service was inadequate, due to the wasteful and unrestricted use of water under the flat rate schedule now in effect. The installation of meters and the establishment of a schedule of meter rates will in all probability entirely correct this condition and greatly improve service.

ORDER.

A. J. Arnaudon having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by A. J. Arnaudon for water delivered to consumers in Mendota are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that A. J. Arnaudon be and he is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers, effective for all measured service rendered subsequent to August 1, 1922:

Monthly Minimum Charges—

⅝-inch meter	$1 50
¾-inch meter	1 75
1-inch meter	2 25
1½-inch meter	3 00
2-inch meter	4 00

Monthly Meter Rates—

From 0 to 1000 cubic feet, per 100 cubic feet	25
Over 1000 cubic feet, per 100 cubic feet	20

Monthly Flat Rates—

The present schedule of flat rates to remain in full force and effect for all unmetered services.

It is hereby further ordered, that A. J. Arnaudon be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with

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his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eighth day of July, 1922.

DECISION No. 10691.

IN THE MATTER OF THE APPLICATION OF ETNA DEVELOPMENT COMPANY FOR AUTHORITY TO INCREASE ITS RATES.

Application No. 4517.

Decided July 10, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, this Commission, by its Decision No. 7663, dated June 7, 1920, established a schedule of increased water rates in the above entitled proceeding, said schedule of increased rates being made contingent upon the conditions:

1. Etna Development Company shall immediately proceed to put its system in such condition as will enable it to render good and adequate service to its consumers, and within twenty (20) days of the date hereof plans and specifications of the necessary repairs shall be submitted to the Railroad Commission for its approval.

2. Upon the satisfactory completion of the repairs contemplated, Etna Development Company shall advise the Railroad Commission of said fact in writing, and ten (10) days after the acceptance of these repairs as adequate the following schedule of rates shall become effective:

And

Whereas, the Etna Development Company has not formally complied with either of the said conditions to date; and

Whereas, the Commission has, through its hydraulic division, caused inspections and informal investigations to be made of conditions on the system of applicant, and being now advised that adequate improvements have been made which have rendered the service adequate and sufficient, in the judgment of the representatives of the said hydraulic division, of four of the five city trustees (the fifth not having been interviewed) and of many of the consumers, and, in fact, no objections having been made by any party;

It is hereby ordered, that requirements 1 and 2 of this Commission's Decision No. 7663 be rescinded in so far as they prevent the filing and charging of the schedule of rates set out in said decision, and that the Etna Development Company be and it is hereby authorized to file within twenty (20) days of the date hereof the schedule of rates set out in said Decision No. 7663, such rates to apply to all service rendered on and after August 1, 1922.

It is hereby further ordered, that except as amended above the said Decision No. 7663 shall remain in full force and effect.

Dated at San Francisco, California, this tenth day of July, 1922.

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DECISION No. 10692.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE TWO MILLION EIGHT HUNDRED EIGHTY-NINE THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO DEPOSIT AND PLEDGE SAID BONDS WITH THE MERCANTILE TRUST COMPANY (SAN FRANCISCO) UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF APPLICANT'S FIRST AND REFUNDING MORTGAGE DATED DECEMBER 1, 1920.

Application No. 7961.

Decided July 11, 1922.

C. P. Cutten, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Pacific Gas and Electric Company asks permission to issue and deposit with the Mercantile Trust Company (San Francisco), trustee, under its first and refunding mortgage $2,889,000 face value of its general and refunding mortgage 5 per cent gold bonds due January 1, 1942.

Under the authority granted by the Commission in Decision No. 8724, dated March 10, 1921 (Application No. 6387), applicant executed a first and refunding mortgage. In this mortgage it agreed that it will not issue and sell any additional bonds which it may have certified under its general and refunding mortgage, but that all of such bonds will be deposited after certification with the trustee under the first and refunding mortgage or exchanged for underlying bonds pursuant to the terms and provisions of the general and refunding mortgage.

Mr. E. W. Hodges, auditor for the Pacific Gas and Electric Company, testified that the company, from July 1, 1921, to December 31, 1921, expended for additions and betterments the sum of $3,209,651.41, and that by virtue of such expenditures the company may call upon the trustee under the general and refunding mortgage to certify $2,889,214.49 face value of bonds. The expenditures made by applicant for additions and betterments from July 1, 1921, to and including December 31, 1921, are reported in detail in applicant's "Exhibit B" filed in this proceeding.

The $2,889,000 of bonds which applicant asks permission to issue will be deposited with the Mercantile Trust Company (San Francisco), trustee, under the first and refunding mortgage and held by such trustee until the general and refunding mortgage is canceled and discharged of record. At that time, the bonds will be canceled. It appears, therefore, that none of the bonds covered by this application will be sold to the public.

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I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and deposit $2,889,000 of bonds, a public hearing having been held and the Commission being of the opinion that this application should be granted and that the issue and deposit of the bonds is in accordance with the terms and provisions of section 52 of the Public Utilities Act;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and deposit with the Mercantile Trust Company (San Francisco), trustee, under its first and refunding mortgage $2,889,000 face value of its general and refunding mortgage 5 per cent gold bonds due January 1, 1942, for the purpose of securing, in part, the payment of bonds issued and sold under said first and refunding mortgage, such general and refunding mortgage bonds to be deposited under and pursuant to the provisions of the first and refunding mortgage, dated December 1, 1920.

The authority herein granted is subject to further conditions as follows:

1. Pacific Gas and Electric Company shall file with the Railroad Commission a report or reports as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will apply only to such bonds as may be issued and deposited on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of July, 1922.

DECISION No. 10695.

J. S. HOMMES, J. A. LUNDEY, MAUDE M. SWISSHELM, A. W. HORTON, FRANK POESCHEL, A. A. ROGERS, H. DABORKY, G. A. ROGERS, R. S. MARSHALL, ALVA CROSSMAN, F. FOSTER, CHAS. E. HENDERSON, MRS. JERRY THATCHER, W. S. ANDERSON, T. CAMP, R. A. WILLIAMS, JERRY THATCHER, JOSEPH HAZELTON, G. W. SWISSHELM, J. R. MOORE, H. E. HAWN, F. DRESCHER, M. E. CROOKHAM, C. E. MOORE,

vs.

C. C. WHITE WATER COMPANY, ALSO KNOWN AS WHITE BROTHERS WATER COMPANY.

Case No. 1612.

Decided July 11, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, a public hearing was held before Examiner Satterwhite in the city of Chico on the twenty-second day of June, 1922, in the matter

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of the application of the C. C. White Water Company, also known as the White Brothers Water Company, for an increase in water rates, being Application No. 7810, and which is now pending before the Commission; and

Whereas, the evidence submitted at the hearing in the above matter indicates that there no longer exists any good and sufficient reason for further delay in compliance with the terms of the Commission's order in Decision No. 9726, wherein the White Brothers Water Company was directed to install certain improvements for the correction of the inadequate service and insufficient pressure existing on this water system;

It is hereby ordered, that the Commission's order of May 5, 1922, suspending the effective date of Decision No. 9726, dated November 8, 1921, be and it is hereby terminated, and except as the time limit for the installation of said improvements is extended as ordered below, said Decision No. 9726 shall remain in full force and effect.

It is hereby further ordered, that White Brothers Water Company be and it is hereby directed to install the improvements to its water system as ordered in said Decision No. 9726 as soon as conditions will permit, but in no case later than August 31, 1922.

It is hereby further ordered, that White Brothers Water Company be and it is hereby directed to submit to this Commission for its approval, within twenty (20) days from the date of this order, detailed plans outlining the proposed improvements as ordered in Decision No. 9726.

Dated at San Francisco, California, this eleventh day of July, 1922.

DECISION No. 10697.

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ COUNTY UTILITIES, A CORPORATION, FOR AN ORDER AUTHORIZING APPLICANT TO ISSUE TWENTY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED CAPITAL STOCK AND SELL THE SAME AT EIGHTY-FIVE PER CENT OF ITS PAR VALUE FOR THE PURPOSE OF REIMBURSING ITS TREASURY FOR CAPITAL EXPENDITURES HERETORORE MADE AND FOR THE PURPOSE OF MAKING CERTAIN EXTENSIONS AND IMPROVEMENTS TO ITS WATER SYSTEMS AT BEN LOMOND, BROOKDALE AND BOULDER CREEK; AND FOR THE PURPOSE OF MAKING EXTENSIONS AND IMPROVEMENTS TO ITS ELECTRIC SYSTEMS AT BROOKDALE AND BOULDER CREEK, IN SANTA CRUZ COUNTY, CALIFORNIA.

Application No. 7967.

Decided July 11, 1922.

SECURITIES—LOANS—AUTHORITY FOR.—Under the Public Utilities Act a utility may borrow money for construction purposes for a period of one year or less without an order of the Railroad Commission.

J. C. Hughes, for Applicant.

BENEDICT, *Commissioner.*

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OPINION.

In this application, as amended at the hearing, Santa Cruz County Utilities, a corporation, asks permission to issue and sell $25,000 of its preferred stock and to use the proceeds to reimburse its treasury on account of capital expenditures made prior to May 31, 1922, and to finance the cost of further additions and betterments to be made to its water and electric systems.

Applicant proposes to sell its stock at not less than 85 per cent of par value, but asks permission to pay, out of the proceeds, a commission of five per cent.

The record shows that applicant was incorporated on or about May 9, 1903, under the name of Boulder Creek Electric Light and Water Company and with an authorized capital stock of $75,000, divided into 750 shares of common stock. Thereafter, under and by a decree of the Superior Court of the State of California, in and for the city and county of San Francisco, duly given and made on the second day of September, 1920, the name was changed to Santa Cruz County Utilities. Applicant now reports that recently it has reclassified its authorized capital stock so as to provide for an issue of 500 shares of common stock and 250 shares of preferred, all shares of a par value of $100 each. It appears that only the common stock is outstanding at this time.

Applicant's amended articles of incorporation show that the holders of the preferred stock are entitled to receive cumulative dividends at the rate of 7 per cent per annum before any dividends are paid on the outstanding common stock, and, upon liquidation or dissolution of the corporation, are entitled to receive 110 per cent of the par value of the preferred stock before any distribution may be made to holders of the common stock. The preferred stock is callable at 110 per cent of the par value. It is further provided that while any preferred stock is outstanding, the company shall pay to a trustee, annually, commencing May 15, 1927, a sum equal to 10 per cent of the net profits for the preceding calendar year after deducting taxes, interest on funded debt and dividends on preferred stock, such sum to be used in redeeming the outstanding preferred stock at 110 per cent of par value, subject, however, to the condition that in no event shall the sum so to be deposited exceed 110 per cent of the aggregate par value of the preferred stock then outstanding.

Applicant reports its indebtedness at $54,035.97. This debt consists of $49,000 of bonds, $3,250 of notes and $1,785.97 of accounts payable.

Applicant now seeks to dispose of all of its authorized preferred stock. It proposes to use a portion of the proceeds to reimburse its treasury and to finance the cost of extensions, additions and betterments made by it prior to May 31, 1922, for which it has not been

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reimbursed, and to expend the balance to pay for estimated capital additions. The company reports, in its Exhibit "B," that from January 1, 1920, to May 31, 1922, it expended $9,759.45 for extensions, additions and betterments to its electric and water plants and systems for which it has not been reimbursed. In addition, it estimates that it must expend for capital additions, the sum of $10,850, which is distributed as follows:

Redwood pipe, 4200 feet	$2,350 00
Galvanized pipe, 2500 feet	725 00
20,000 gal. redwood tank, 1000 feet galvanized pipe	750 00
Four 3 K.V.A. and two 5 K.V.A. transformers	450 00
Sixty electric meters	750 00
Two redwood tanks and water mains	3,100 00
Twenty-four electric poles	450 00
Electric distributing lines	500 00
Electric transmission lines	1,325 00
Forty water meters	450 00
Total	$10,850 00

The company proposes to sell its stock to its consumers. While asking permission to sell at not less than 85, less a commission of 5 per cent, the testimony herein shows that it is the intention of applicant to dispose of its stock at par, if possible.

In its petition, applicant asked permission to borrow money in the aggregate amount of $5,000 for a period of one year or less at a rate of interest not exceeding eight per cent per annum, such loans to be secured by pledge of its preferred stock on a basis of sixty per cent of par value. At the hearing, however, J. C. Hughes, applicant's president, stated that it would be satisfactory if the Commission made its order authorizing only the issue and sale of stock. Under the Public Utilities Act, applicant may borrow money for construction purposes for a period of one year or less without an order of the Railroad Commission. That portion of the order relating to the borrowing of money and the pledge of stock, therefore, will be dismissed.

I herewith submit the following form of order:

ORDER.

Santa Cruz County Utilities, a corporation, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue and sale of $25,000 of preferred stock is reasonably required by applicant for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

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It is hereby ordered, that Santa Cruz County Utilities, a corporation, be and it is hereby authorized to issue and sell $25,000 of its preferred stock.

It is hereby further ordered, that this application, in so far as it relates to the borrowing of money and pledging of stock, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to further conditions as follows:

1. The stock shall be sold by applicant for cash at not less than 85 per cent of its par value.

2. Of the proceeds, an amount equivalent to not more than five per cent of the stock sold, may be used, if necessary, to pay commissions and expenses incident to the sale of the stock. The remainder of the proceeds shall be used to reimburse applicant's treasury and to finance the cost of additions and betterments referred to in the foregoing opinion and in this application.

3. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of July, 1922.

DECISION No. 10698.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS.

Application No. 6204.

Decided July 11, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Commission, by Decision No. 8409, dated November 30, 1920, as amended, authorized Coast Valleys Gas and Electric Company to issue and sell, on or before June 30, 1922, at not less than 80 per cent of their face value and accrued interest, $375,000 of first mortgage

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6 per cent bonds, due March 1, 1952. Applicant reports that it has issued and sold $270,000 of said bonds, leaving $105,000 unissued and unsold. Applicant asks for additional time within which to sell the $105,000 of bonds.

The Commission has considered applicant's request and believes that it should be granted, as herein provided.

It is therefore ordered, that the order in Decision No. 8409, dated November 30, 1920, as amended, be and it is hereby modified so as to permit Coast Valleys Gas and Electric Company to issue and sell, on or before June 30, 1923, at not less than 90 per cent of their face value and accrued interest, the $105,000 of first mortgage 6 per cent bonds due March 1, 1952, referred to in this third supplemental order.

It is hereby further ordered, that the order in Decision No. 8409, dated November 30, 1920, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this eleventh day of July, 1922.

DECISION No. 10699.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID CALIFORNIA TELEPHONE AND LIGHT COMPANY TO ISSUE, SELL AND DELIVER TO THE FACE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS ITS FIRST MORTGAGE SIX PER CENT GOLD BONDS MATURING APRIL 1, 1943.

Application No. 7930.

Decided July 12, 1922.

Leo H. Susman, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

In this application, as amended, California Telephone and Light Company asks permission to issue and sell $100,000 of its first mortgage 6 per cent gold bonds due April 1, 1943, at not less than 94 per cent of face value and to use the proceeds to reimburse its treasury for capital expenditures made prior to May 31, 1922, and to finance the cost of additions, betterments and improvements to its electric and telephone plants and systems.

The bonds herein applied for are part of an authorized issue of $5,000,000 of first mortgage bonds. They bear interest at 6 per cent per annum, are dated April 1, 1913, mature April 1, 1943, and are callable at 107½ and accrued interest. The company reports that $652,900 of bonds are now outstanding in the hands of the public. In addition, applicant reports $1,314,931.91 of stock outstanding, con-

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sisting of $764,850 of common and $550,081.91 of 6 per cent cumulative preferred stock.

Applicant reports in this proceeding that it has expended for capital purposes prior to May 31, 1922, the sum of $77,595.86, for which it has not been reimbursed by the issue and sale of securities. It now asks permission to capitalize these expenditures by the use of a portion of the proceeds obtained from the sale of the $100,000 of bonds. The remainder of the proceeds it proposes to use to pay the cost of additions and betterments to be made subsequent to June 1, 1922.

The testimony of W. P. Ferguson, petitioner's general manager, shows that on May 25, 1922, the company had on hand applications from consumers for extensions, the estimated cost of which will amount to $13,500; that in addition it proposes to purchase a lot in Santa Rosa and to erect a new main office building at an approximate cost of $33,000; and that it is now proceeding on a construction program which provides for the building of a 60,000-volt line from Mirabel Park to Russian River, a distance of 1.4 miles, the erection of a substation with three 300-kilovolt ampere transformers, the acquisition of rights of way and the installation of additional transformers at Healdsburg and Hopland, all at an estimated cost of $17,100.

I believe that applicant's request to issue and sell bonds should be granted, but that the company should be permitted at this time to expend only $77,595.86 of the proceeds obtained from the sale of such bonds for the purposes indicated in the following order. The remainder of the proceeds shall be deposited by applicant in a bank or banks and expended only as subsequently authorized by the Commission in a supplemental order or orders.

I herewith submit the following form of order:

ORDER.

California Telephone and Light Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Telephone and Light Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, at not less than 94 per cent of face value, plus accrued interest, $100,000 of first mortgage 6 per cent gold bonds due April 1, 1943.

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The authority herein granted is subject to further conditions as follows:

1. Applicant may use not exceeding $77,595.86 of the proceeds obtained from the sale of the bonds herein authorized to reimburse its treasury and to finance the cost of additions, betterments and improvements made prior to May 31, 1922, and reported in this application. The remainder of the proceeds shall be deposited in a bank or banks and expended only for such purposes as the Commission may authorize by a supplemental order or orders.

2. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $100.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of July, 1922.

DECISION No. 10700.

VALLEJO ELECTRIC LIGHT AND POWER COMPANY, A CORPORATION,

vs.

GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 1643.

Decided July 12, 1922.

CERTIFICATE—ELECTRIC UTILITY—COMPETITION—DUPLICATION. — The question whether competition or duplication of lines in a given territory should be forbidden by the Commission is declared to be one of public policy to be determined from the particular facts in each case.

CERTIFICATE—SUBJECT TO REGULATION—RIGHT TO LIMIT.—A certificate of public convenience and necessity is declared to be not a right which passes beyond all regulation or control, and the Commission is held to have power to make reasonable regulations governing, and, if necessary in the public interest, limiting its use.

Frank E. Powers, attorney for Complainant.
Chaffee E. Hall, attorney for Defendant.

BENEDICT, *Commissioner.*

OPINION.

In 1912 the Railroad Commission, by its Decision No. 107 (Vol. 1, p. 203, Opinions and Orders, Railroad Commission), granted the Great

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Western Power Company a certificate of public convenience and necessity to construct transmission and distribution lines in all sections of Solano County with the exception of certain cities and towns, among which was the city of Vallejo.

The Vallejo Electric Light and Power Company is now and was, prior to the taking effect of the Public Utilities Act, distributing electric energy in the city of Vallejo and hence has never obtained a certificate of public convenience and necessity to serve that territory.

The Great Western Company in 1912 built a 22,000-volt transmission line running north and south and passing about a mile distant from the east limits of the city of Vallejo. In 1913 the Great Western Company began to furnish electricity from this line to a few consumers in what is known as the Highway Homes Addition. This tract is approximately a mile from the east city limits of Vallejo. Additional consumers in this tract were taken on in 1914, 1915 and 1916.

In 1917 the Great Western Company began the construction of a distribution line a short distance north of the city limits of Vallejo in the vicinity of the Napa road. The Vallejo Company then filed a complaint against the Great Western Company, alleging that the territory in question was contiguous to its existing lines and hence that any business in that territory belonged to it. A conference was held between the parties and a representative of the Railroad Commission, at which it was agreed that the Great Western Company should withdraw from the disputed territory, the Vallejo Company should pay the Great Western Company for such work as had been done and thereafter the territory should be served by the Vallejo Company. Pursuant to this agreement the complaint was dismissed.

While these negotiations were pending the Vallejo Company filed an application for a certificate of public convenience and necessity to serve a considerable area of territory outside of the city of Vallejo, but surrounding it and contiguous to it on all sides. (See complainant's Exhibit No. 1.) The Great Western Power Company's 22,000-volt line runs through this area and most of the distribution lines built by the Great Western Company in the Highway Homes Addition are contained within it. The Great Western Company also has two small distribution lines near the Sulphur Springs road outside the limits of Vallejo but within the area covered by this application.

Notice of hearing on this application was sent to the Great Western Company and also to the Pacific Gas and Electric Company but neither company appeared, and on July 3, 1917, the Vallejo Company was granted a certificate of public convenience and necessity to serve the territory described in its application. (Decision No. 4438.) Thus we

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have a situation where both the Vallejo Company and the Great Western Company have been granted certificates from the Railroad Commission authorizing them to serve electricity in the same territory.

During the last few years Vallejo has grown rapidly and the Vallejo Company has extended its line outward to keep pace with this growth. In 1921 the Vallejo Company made an extension in the Starr subdivision (see complainant's Exhibit No. 1) reaching to Lemon street. During the same year the Great Western Company made extensions in the Highway Homes Addition also reaching to Lemon street. Lemon street is the dividing line between the two tracts. The present complaint was filed by the Vallejo Light and Power Company, July 27, 1921, and alleges that the defendant, Great Western Power Company, intends to and will, unless prevented by order of the Railroad Commission, duplicate complainant's line and extend its line into the territory now served by the Vallejo Company. The territory covered by the certificate of public convenience and necessity granted to the Vallejo Company by the Railroad Commission in 1917 is described in the complaint and the prayer of the complaint asks that the Commission make its order compelling the Great Western Company to stop its construction of lines in that district and declaring that neither the present nor future public convenience and necessity will require the construction by the defendant of distribution lines in said district.

The particular facts which gave rise to the filing of this complaint are described by Mr. Casper, general manager of the Vallejo Company, at page 80 of the transcript:

Q. By Mr. Powers: Mr. Casper, just one question: You stated that you had reason to believe, in response to one of Mr. Hall's inquiries, that it was the intention of the defendant to parallel your existing lines; now what was that reason?

A. The reason that I had was due to the fact that, as I stated before, when I visited the Highway Homes Addition one morning, we found the Great Western Power Company machine in the Starr subdivision in front of the houses on Benicia Road, and the two men were going from house to house and I presumed at that time they were solicitors and I watched them for quite a time. When they had finished soliciting, they drove up Benicia Road down Lemon street to the rear of those houses in the Starr subdivision. I saw them stepping it off, one man was making notes, and then they came back and started to come down this way; they came back again and resurveyed the Starr subdivision; our lines were then constructed and I presumed that it was the intention of the Great Western Power Company to duplicate those lines.

The Great Western Power Company denied that it had begun to parallel any of the Vallejo Company's lines or that it intended to construct any line which would parallel that company's line. The soliciting for consumers in the Starr tract by agents of the Great Western Company was explained by Mr. Black, general sales manager of the company, as follows (pp. 98–99, Tr.):

It seems that there were two consumers located in the Starr tract facing Lemon street at a distance of approximately 800 feet from the lines of the Vallejo Company. Those consumers told us—this comes through two or three people on hearsay

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again—but they told us that they had made application for service to the Vallejo Company and had been refused and asked us if we would not serve. It happened that we were planning on serving two or three consumers who were located in the Highway Homes tract, facing Lemon street, almost immediately opposite to the two consumers or three, I have forgotten the exact number, in the Starr tract, and our salesmen naturally went after all the business available from the particular extension that we were making to serve our three consumers. That was the excuse; that was the explanation that they gave to me. We would, of course, not have permitted any paralleling of the Vallejo Company's lines; that would have had to come to the attention of the general office before anything like that could have happened and we would have caught it, of course. We don't supervise directly the activities of the salesmen in the field; that is done by the district manager; but for any expenditures in the nature of an extension of this kind, they would have to submit the entire data, including the map showing the location of consumers and the entire information including the cost and revenue, to the general office.

Q. Then am I to understand that you instructed your solicitors to keep out of the Starr subdivision?

A. I told them to stay away even from those two consumers, which I understand have since been taken care of by the Vallejo Company.

Notwithstanding the declaration of Mr. Black that no paralleling of lines will be permitted, the fact remains that the Vallejo Company has extended its line outward from the city and the Great Western Company has extended its line toward the city until the lines of the two companies are now separated only by a city street. As the territory in the vicinity of these lines becomes built up there is certain to be a conflict between these companies. This is indicated by the testimony of Mr. Black (pp. 100–01, Tr.). Mr. Black stated that in the event new business develops outside the Highway Homes Addition, the Great Western would attempt to get it. He did say that they would make no effort to serve a consumer in the Starr tract, but later he made the statement that he thought the Great Western had a perfect right to serve any piece of business which might develop in that territory, even though it would result in the paralleling of the Vallejo Company's lines.

We have, then, a growing territory served by two companies, with both companies claiming the right and stating that it is their intention to serve any business which may develop, regardless of consequences.

The first question to be determined is, whether, under these conditions, the Commission ought to make any order defining the respective rights of the parties in this territory.

The question whether competition or duplication of lines in a given territory should be forbidden by the Commission is one of public policy to be determined from the particular facts in each case. Competition under some conditions is not, of itself, harmful and has in some cases been permitted by the Commission. In the present case, however, we can see no good purpose to be served by permitting the two companies to extend their lines indiscriminately in the area in question. That area is contiguous to the city of Vallejo. Much of it is built up now. The natural growth will be, as it has been, outward from the city.

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Whether the actual boundary line of the city is extended or not, it is not unlikely that much, if not all, of the territory in question, will be actually city territory. We think that duplication of lines in territory of this character and under conditions here existing should not be permitted.

It is urged that there has as yet been no duplication and that there is nothing upon which the Commission can act at the present time. The Commission could, of course, if it believed the public interest required it, leave the parties in their present position and make no order until some further extension of lines precipitated another complaint. But we do not think it either necessary or advisable to do this. This is the second proceeding which has come before the Commission involving operating rights in this territory. If the rights of the parties under their respective certificates are not defined, the result will very probably be that a complaint will be lodged with the Commission every time any new extension is begun. This, with the expense of hearings and adjustments, should be avoided if possible. If the Commission has power to do so, we think the rights of the parties in this territory should be defined at this time.

The Great Western Power Company claims that no order can be made under the present pleadings, because it was admitted at the hearing that the Great Western Company has a certificate from the Commission to serve in this field and that nothing is alleged in the complaint but that the defendant is proceeding to construct lines contrary to law. In other words, it is claimed that this admission removed the only possible ground for complaint the Vallejo Company has. It is also claimed by the Great Western Company that no order involving a division of territory can be made because the complaint is based solely on the theory that the actions of the Great Western Company are unlawful and this was the only issue the Great Western Company was apprised of by the complaint. To reach a decision involving a division of territory, would, defendant urges, make it necessary for the Commission to determine questions of comparative rates, facilities and service of the respective utilities and the Great Western Company was not apprised by the complaint that these matters would be raised at the hearing and was not prepared to meet them. The Great Western Company pleads that it was taken by surprise as to these matters and has not had its day in court.

These contentions can not be sustained. The complaint states that the extensions being made by the Great Western Company are unlawful. It sets up the fact that in 1917 the Vallejo Company was granted a certificate to serve all the area in question; it alleges that the Vallejo Company has the facilities to serve this territory in an efficient manner at reasonable rates and is willing to do so; it further avers that the

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Great Western Company is engaged in constructing distributing lines in the "aforesaid district," that said lines will prove unprofitable, and that unless prevented the defendant will duplicate complainant's lines in said district, and that this duplication will work to the detriment of the consumers of electricity in the district and to the detriment of complainant.

By the above allegations the Great Western Company is apprised that the Vallejo Company claims the right to render service in the territory in question and that it claims that a duplication of lines is being made which will be contrary to the best interests of the public. It is true, as counsel for the Great Western Company say in their brief, that there is nothing unlawful in the duplication of facilities where both utilities possess franchises and certificates "and such duplication has not been forbidden by the Commission." The issues thus raised are whether the alleged duplication of lines is contrary to the best interests of the public and whether the Commission will forbid such duplication. We think these are issues of which the Commission may take cognizance and that the defendant was fully apprised of what it would be called upon to meet under them.

There was considerable discussion at the hearing upon the question as to whether, if two utilities had certificates of public convenience and necessity covering a given district, the Commission has power to prohibit wasteful and unnecessary competition or duplication of lines within such district by limiting the rights of the companies under such certificates. The defendant, in its brief, declined to discuss this question, asserting that it is unnecessary to a decision of the case. Under the issues presented, however, we think a decision on this point is essential.

It may be said that any limitation of the rights of either party to make extensions will result in a virtual revocation of the certificates of public convenience and necessity heretofore granted as to part of the territory covered by them. We think this is no valid objection. The Commission may, upon notice to the utility, modify a previous order or decision at any time. (Sec. 64, Public Utilities Act.) In this case, the defendant was aware that the present proceeding might result in an order modifying the original order of June 18, 1912. Furthermore, a certificate of public convenience and necessity is not a right which passes beyond all regulation or control. While the Commission could not arbitrarily revoke a certificate, especially if extensive investments had been made pursuant to it, we are of the opinion that the Commission may make reasonable regulations governing, and if necessary in the public interest, limiting its use. There remains to be

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determined the extent to which the rights of the parties to make extensions should be limited.

The Vallejo Company claims that the certificate granted the Great Western Company in 1912 was intended to convey only the right to operate as a wholesale company, and that the certificate granted to it (the Vallejo Company) in 1917, considered together with the agreement then entered into between the two companies, in effect gave the Vallejo Company the exclusive right to serve retail consumers in the territory now under consideration. We think it unnecessary, however, to attempt to determine these questions. There is ample evidence to show that on the plain ground of public convenience and necessity the territory in question should be served by the Vallejo Company.

Defendant urges that this question can not be determined without a decision as to the comparative rates, facilities and service of the respective utilities and that it has had no opportunity to offer evidence in relation to these matters. It did, however, offer considerable evidence in relation to these matters and certain deductions may be drawn from admitted facts. The rates of all utilities in the state are on file with the Commission and are part of its official files. These schedules show that the rates of the Vallejo Company for residence lighting, which is the class of service predominating in the territory in question, are appreciably lower than those charged by the Great Western Company, not only in this territory but in all similar territories on its system.

As to facilities and service we may assume, for the purpose of this case, that the general facilities and service of the two companies are satisfactory. It is admitted, however, that the nearest office and headquarters of the Great Western Company is at Napa, some eighteen miles from Vallejo, and as to the particular territory in question the Vallejo Company is undoubtedly at a considerable advantage on this account. The receipt of payments and of orders for service and the handling of complaints or emergency repairs can unquestionably be much more expeditiously taken care of by the Vallejo Company. As already pointed out the territory naturally is tributary and essentially part of the city of Vallejo.

The Vallejo Company has been consistently expanding its system as the territory developed. On page 67 of the transcript appears a list of extensions that have been made by the Vallejo Company outside of the city limits and in the territory here in question. This list includes some eight tracts or subdivisions of land. The Great Western Company now has a few consumers in the Highway Homes Addition, a few on the Benicia road, and a few on the Sulphur Springs road—a total of about twenty altogether (p. 15, Tr.). Under these conditions we think that public convenience will best be served if all

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further extensions in the general territory now covered by the lines of the Vallejo Company be made only by that company. The Great Western Company, however, should be permitted to continue to serve the Highway Homes Addition and such other consumers as it now has or can serve from its existing distribution lines. The territory between the present lines of the two companies is affected by other considerations.

As before pointed out, it is desirable, from the standpoint of rates and facilities for service, that this territory be served by the Vallejo Company. It must be borne in mind, however, that the present lines of the Great Western Company are closer to parts of this territory than are the present lines of the Vallejo Company. The requirement that this territory be served solely by the Vallejo Company might work a hardship either on that company, by requiring it to make extensions which might be more economically made by the Great Western Company, or else upon applicants for service by preventing them from securing service from the adjacent lines of the Great Western Company. The order will therefore provide that extensions in this intermediate territory be made by the Vallejo Company but in the event that the Vallejo Company refuses to serve any applicant for service, then the service may be supplied by the Great Western Company. Should such a contingency arise it will of course be expected that the Great Western Company will serve any other future consumer adjacent to the lines so constructed and that the Vallejo Company will refrain from paralleling any of the lines of the Great Western Company so built.

It should be added that in event the Vallejo Company fails to perform its full duty to the public, and particularly to make all reasonable extensions as rapidly as the public requires, the Commission will modify this order or take such other action as may be appropriate.

ORDER.

For the reasons above set forth;

It is hereby ordered, that the Great Western Power Company of California make no further extensions of its lines and construct no more distribution lines for the service of electric energy within the territory described in the order of this Commission under date of July 3, 1917 (Decision No. 4438), granting the Vallejo Electric Light and Power Company a certificate of public convenience and necessity to exercise certain franchise rights in Solano County;

Provided, that the Great Western Power Company of California may construct distribution lines for the service of electric energy to any applicant to whom service has been refused or shall hereafter be refused by the Vallejo Electric Light and Power Company; and

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Provided further, that the Great Western Power Company of California may serve such consumers as desire service in that tract or subdivision of land partially contained within the above mentioned territory and known as the Highway Homes Addition and for such purpose may make extensions within said tract or subdivision of land and may also serve all consumers desiring service from any of its existing distribution lines or any future lines built in accordance with the provisions of this order.

Furthermore, the Commission hereby declares that public convenience and necessity require the amendment and modification of the Commission's order of July 18, 1912, Decision No. 107, granting a certificate of public convenience and necessity to the Great Western Power Company and of the Commission's order of July 3, 1917, Decision No. 4438, granting a certificate of public convenience and necessity to the Vallejo Electric Light and Power Company, and the same are hereby modified and amended in so far as the exercise of rights thereunder are limited by the provisions of the foregoing order.

Dated at San Francisco, California, this twelfth day of July, 1922.

DECISION No. 10702.

IN THE MATTER OF THE APPLICATION OF BAY TRANSPORT COMPANY, A CORPORATION, FOR A PERMIT AUTHORIZING IT TO ISSUE AND SELL ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS FACE VALUE OF BONDS.

Application No. 7942.

Decided July 13, 1922.

Gregory and Goodell, by *T. T. C. Gregory*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Bay Transport Company, in its amended application, asks permission to issue and sell $175,000 of its first mortgage seven per cent sinking fund gold bonds due June 1, 1932, at not less than 90 per cent of face value and to use the proceeds to pay its outstanding indebtedness.

Applicant was organized during September, 1921, for the purpose of acquiring and operating steamers, barges, tugs and equipment for the carriage of freight as a common carrier on San Francisco Bay and adjacent waters. Pursuant to Decision No. 9812, dated November 26, 1921, as amended, it acquired properties formerly owned by the E. V. Rideout Company which were then being operated by a creditor's committee, and in consideration issued $76,000 of capital stock and assumed the payment of indebtedness aggregating $201,-

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141.02. Thereafter, pursuant to orders of the Commission, applicant issued $93,000 of stock to reimburse its treasury on account of surplus earnings used to pay indebtedness and to acquire properties, so that at present there is stock outstanding of a total par value of $169,000.

The company has heretofore reported that from time to time it has been reducing, out of earnings, the assumed indebtedness. As of May 31, 1922, it reports a total debt of $160,654.62. The items making up this indebtedness are shown in the following balance sheet:

Assets.		
Equipment:		
Steamers, tugs, barges	$286,259 00	
Dock equipment	426 15	
Furniture and fixtures	1,020 87	
Office building	1,709 76	
Total	$289,415 78	
Less reserve for depreciation	16,466 88	
		$272,948 90
Current assets:		
Cash	$42,510 07	
Receivables:		
Freight	15,044 99	
Notes	4,000 00	
Claims	219 08	
		61,783 14
Deferred charges:		
Ship stores	$757 68	
Unexpired insurance	3,731 25	
Insurance deposit	550 00	
Crockett overhauling	18,845 30	
		23,884 23
Total assets		$358,616 27
Liabilities.		
Capital stock	$500,000 00	
Less unissued	331,000 00	
Capital stock issued		$169,000 00
Current liabilities:		
Accrued payroll	$5,964 39	
Accounts payable—amount	8,574 86	
		14,439 25
Deferred liabilities:		
Special accounts	$28,327 37	
Notes payable	15,676 04	
Accrued interest	1,973 67	
Mortgages payable	97,279 00	
		143,256 08
Contingent—liabilities for claims		2,959 29
Surplus		28,961 65
Total liabilities		$358,616 27

It appears that the mortgage indebtedness, $97,279 and $13,884, of notes payable, fall due on or before December 9, 1922, and that the remainder of the notes and all of the special accounts are payable on December 14, 1923. It is of record that the company is paying

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interest at the rate of 6 and 7 per cent per annum on its present indebtedness.

In its original application, applicant requested permission to issue and sell 8 per cent bonds. It has, since the hearing had on the original application, amended the same in all particulars by striking out as the interest rate on the bonds proposed to be issued the word "eight (8%) per cent" and inserting in lieu thereof "seven (7%) per cent" in all appropriate places in the application and in the exhibits and trust deeds thereto attached.

Applicant requests permission to issue and sell $175,000 of 10-year 7 per cent bonds for the purpose of paying its indebtedness. Applicant's proposed deed of trust provides for an authorized bond issue of $200,000. The bonds are to be dated June 1, 1922, mature June 1, 1932, bear interest at the rate of 7 per cent per annum, and are to be callable on any interest payment date at 110 and accrued interest. The proposed deed of trust contains a sinking fund clause requiring the company to pay annually to the trustee an amount equal to 10 per cent of the highest amount of bonds in face value at any one time outstanding during the current or previous calendar year, together with the proceeds realized from the sale of mortgaged property. If at any time the trustee shall have in the sinking fund a sum of money equaling or exceeding $5,000, it shall, upon receiving a written order therefor, from the board of directors of the company, proceed forthwith to purchase in the open market the company's bonds at the lowest price obtainable, but not exceeding 110 and accrued interest. If one month before any interest payment date, the trustee shall have in the sinking fund a sum in excess of $5,000, it may upon order of the company draw by lot the several numbers of so many outstanding bonds as the amount of money in the sinking fund will purchase at a price of not more than 110 and accrued interest.

Applicant requests permission to sell its bonds at not less than 90 per cent of face value and accrued interest, or on an eight and one-half per cent basis assuming the bonds are held to maturity. In view of the sinking fund created by applicant's deed of trust, it is fair to assume that a substantial amount of the bonds will be paid prior to maturity, resulting in a higher yield.

While a company operating under circumstances, such as applicant, may not be able to sell its bonds on a 6 per cent basis, nevertheless I do not believe that this Commission should, under present money market conditions, authorize the sale of a 10-year 7 per cent bond, callable at 110, at a price of not less than 90 and accrued interest. Unless applicant can sell its bonds on a basis of 8 per cent or better, I do not believe that its present indebtedness should be refunded through the sale of bonds. The order herein will require applicant

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to sell its 7 per cent bonds for cash at not less than 93.2 per cent of face value and accrued interest.

I herewith submit the following form of order:

ORDER.

Bay Transport Company having applied to the Railroad Commission for permission to issue and sell $175,000 of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that Bay Transport Company be and it is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding and marked "Exhibit B," as amended by applicant's supplemental application filed July 13, 1922.

Provided, that the authority herein granted to execute such deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

It is hereby further ordered, that Bay Transport Company be and it is hereby authorized to issue and sell, on or before December 15, 1922, for cash, at a net price of not less than 93.2 per cent of their face value and accrued interest, $175,000 of 7 per cent bonds due June 1, 1932, and use the proceeds to pay indebtedness referred to in this application, said bonds to be issued under and secured by the deed of trust which applicant is herein authorized to execute.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. Applicant shall file with the Commission a certified copy of its deed of trust within thirty days after the execution of said deed of trust.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1922.

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DECISION No. 10703.

IN THE MATTER OF THE APPLICATION OF THE C. C. WHITE WATER COMPANY FOR AN INCREASE IN RATES.

Application No. 7810.

Decided July 13, 1922.

Clyde Thomas, for Applicant.
J. Oscar Goldstein, for Protestants and for the City of Chico.

BY THE COMMISSION.

OPINION.

The C. C. White Water Company, also known as the White Brothers Water Company, applicant in the above entitled matter, is a public utility supplying water for domestic purposes to residents of Chapmantown, a community adjoining and lying partially within the incorporated limits of the city of Chico, Butte County. The applicant in this proceeding requests the Commission to authorize an increase in the minimum flat rate charge for residences of $1.50 per month, as at present in effect, to $2 per month. This increase was agreed to by a majority of the consumers of the system as a result of an advertised public meeting at which the consumers expressed their willingness to pay, temporarily, the greater rate, pending the outcome of a proposed election for the purpose of voting bonds for the purchase of the various water systems serving Chico; provided, however, that the service be at all times adequate. A public hearing was held in this matter before Examiner Satterwhite at Chico. All interested parties were notified and given an opportunity to be present and be heard.

The water supply for this system is obtained from three connected wells, each 30 feet deep, which collect the water intercepted by several short tunnels aggregating 110 feet in length. The water is pumped by a 5-inch by 8-inch Dean Triplex pump into a concrete cistern of 12,000 gallons capacity, located below the ground level. Water is pumped by a 7-inch by 8-inch Gould Triplex pump from this storage cistern or from the wells either directly into the distribution mains or into a 6000-gallon wood stave tank elevated 60 feet above the ground surface. The pumps are operated by a 15-horsepower Westinghouse motor. The distribution system consists of approximately 19,000 feet of pipe lines, a very small amount of which is six inches and five inches in diameter, the greater part being four inches and smaller. A considerable amount of the pipe was second-hand when installed.

The rate now charged by the applicant is $1.50 per month for residences. This rate was established when the system was first installed in 1910, and has never before been passed upon by this Commission.

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There are no metered service connections. During the year 1921 there was an average of 135 consumers throughout the year and on June 1, 1922, there were 140 consumers.

A report was submitted by Mr. M. R. MacKall, one of the Commission's hydraulic engineers, which shows an appraisement of this plant, based upon the estimated original cost, amounting to $10,691, an annual replacement fund, computed by the 6 per cent sinking fund method, of $146, and recommending as reasonable an allowance of $2,100 for operation and maintenance expenses. No other appraisal of this utility's property was submitted.

A consideration of the evidence leads to the conclusion that the estimates submitted are fair and they will be used for the purposes of this proceeding.

Following is a summary of the annual charges outlined above:

Return at 8 per cent of $10,691	$855 00
Annual replacement fund	146 00
Maintenance and operation expenses	2,100 00
Total	$3,101 00

The revenues collectible during the year 1921 were $2,400.

It is apparent that the present rate schedule does not yield an adequate return. However, the service rendered by the applicant during the summer months has been in the past, and now is, wholly inadequate. Furthermore, the evidence shows that a large amount of the dissatisfaction existing among the consumers is caused by the lax and inefficient methods of management which have characterized the operation of this plant. The applicant does not keep any record of its transactions. The general orders of the Commission requiring public utilities to keep their records according to the prescribed uniform classification of accounts have never been complied with. The applicant has no rules and regulations governing the use of water or the relations between the utility and the consumers.

It appears, therefore, that any readjustment in the present rate schedule should be predicated upon the installation of such necessary improvements in the distribution system of this utility as will insure that water will be delivered to all consumers at proper pressure and in sufficient quantities to render satisfactory service at all times of the year. These improvements were ordered by the Commission in its Decision No. 9726, decided November 8, 1921, in Case No. 1612, which was a complaint against the inadequate service of this water utility. At the joint request of the consumers and the water company, the effective date of the above order was postponed by the Commission on the fifth day of May, 1922.

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The installation of meters on this system will eliminate carelessness in the use of water and will at the same time materially reduce the pumping expense. The Commission is of the opinion that the most feasible remedy for the financial and service difficulties of this utility is in serving at measured rates rather than in having the flat rate increased as suggested, and for that reason no change in the flat rate is made herein.

The schedule of rates established in the following order is designed to return a revenue approximately equal to the annual charges as set out above.

ORDER.

C. C. White Water Company having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the C. C. White Water Company for water supplied to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing its order on the foregoing finding of fact and on the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California, that the C. C. White Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates for water delivered to its consumers in Chapmantown and vicinity, said rates to be charged for all service rendered subsequent to the date upon which this Commission formally accepts as satisfactory the improvements ordered in its said Decision No. 9726:

Rate Schedule.

Monthly flat rates.	
1. Residences	$1 50
2. Stores	1 50
Monthly meter rates.	
First 1000 cubic feet, per 100 cubic feet	0 25
From 1000 cubic feet to 2000 cubic feet, per 100 cubic feet	0 20
Over 2000 cubic feet, per 100 cubic feet	0 12
Monthly minimum charge	1 25

Meters may be installed on any and all services at the request of any consumer or at the option of the utility.

It is hereby further ordered, that the collection of the rates set out in the schedule herein authorized is expressly conditioned upon the improvements ordered by this Commission, in its Decision No. 9726, being installed and in operation in a manner satisfactory to the Commission on or before the thirty-first day of August, 1922, as established in the Commission's Decision No. 10695, decided July 11, 1922.

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It is hereby further ordered, that the C. C. White Water Company be and it is hereby directed to file with the Commission within thirty (30) days from the date of this order, a complete schedule of rules and regulations governing the distribution and sale of water to its consumers, said schedule to be effective on the day of its acceptance by the Commission.

Dated at San Francisco, California, this thirteenth day of July, 1922.

DECISION No. 10705.

IN THE MATTER OF THE APPLICATION OF THE UNITED LIGHT, FUEL AND POWER COMPANY FOR PERMISSION TO SELL ITS ELECTRIC LIGHT AND POWER DISTRIBUTING SYSTEM IN THE CITY OF CORONADO, INCLUDING ITS PRIVILEGES, PERMITS AND BUSINESS, TO THE SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 7734.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND SELL ONE HUNDRED FOUR THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED OR COMMON STOCK.

Application No. 7742.

Decided July 13, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Commission, by Decision No. 10601, dated June 16, 1922, authorized San Diego Consolidated Gas and Electric Company to issue and sell at not less than 96½ per cent of its par value net, $78,100 par value of 7 per cent cumulative preferred stock and use the proceeds obtained from the sale of such stock to pay in whole or in part for the properties which it is authorized by said decision to acquire from United Light, Fuel and Power Company. The company now requests the Commission to modify the order in Decision No. 10601, dated June 16, 1922, so as to permit the company to issue and sell $14,200 par value of common stock at not less than par and $63,400 par value of preferred stock at not less than 96½ per cent of par value.

The Commission has considered applicant's request and believes that it should be granted as herein provided.

It is therefore ordered, that the provision of the order in Decision No. 10601, dated June 16, 1922, reading:

> *It is hereby further ordered,* that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 96½ per cent of its par value net, $78,100 par value of 7 per cent cumulative preferred stock and use the proceeds obtained from the sale of such stock to pay in whole or in part for the properties which it is herein authorized to acquire.

be and it is hereby amended and modified so as to read:

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It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell $14,200 par value of its common stock at not less than par, and to issue and sell $63,400 par value of its 7 per cent cumulative preferred stock at not less than 96½ per cent of par value, and use the proceeds obtained from the sale of such stock to pay in whole or in part for the properties which it is herein authorized to acquire.

It is hereby further ordered, that the order in Decision No. 10601, dated June 16, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this thirteenth day of July, 1922.

DECISION No. 10707.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER PERMITTING IT TO CONSTRUCT, MAINTAIN AND OPERATE A SPUR TRACK AT GRADE ACROSS CERTAIN PUBLIC ROADS, HIGHWAYS AND STREETS IN THE COUNTY OF SAN JOAQUIN AND IN THE CITY OF STOCKTON.

Application No. 7902.

Decided July 15, 1922.

F. M. Angellotti, Neumiller and Ditz, by *Chas. L. Neumiller* and *George A. Ditz*, and *James S. Moore, Jr.*, for Applicant.
R. C. Pardoe, Deputy District Attorney, for the County of San Joaquin.
Nutter, Hancock and Rutherford, by *W. B. Nutter* and *John Hancock*, for Cyrus Moreing and others.
W. H. Atherton, representing M. P. Shaughnessy, for City of Stockton.
Robert G. Williams, for Federation of San Joaquin County Farm Bureau, Intervener.

MARTIN, *Commissioner*.

OPINION.

In this application Western Pacific Railroad Company asks permission to construct a spur track at grade across eleven public roads in the unincorporated portion of the county of San Joaquin and across fourteen public streets and alleys within the city of Stockton.

A public hearing on this application was held on June 27, 1922, in Stockton, when the matter was submitted, except that ten days were allowed in which counsel for Cyrus Moreing and others might file a brief in the matter of the authority of the Commission to prescribe the particular kind of bridge to be constructed across Smith Canal, and the Federation of San Joaquin County Farm Bureau was allowed five days to file briefs and argument as to the manner of crossing the Lower Sacramento road. No briefs were filed.

The proposed spur diverts from the main line of the Western Pacific Railroad approximately two and a half miles north of Weber avenue, Stockton, and thence goes westerly, approximately paralleling the Calaveras River, a distance of about two and one-half miles, thence runs

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southerly for a distance of about two miles to the northerly side of the Stockton Channel and thence easterly nearly two miles along the northerly side of the channel to Madison street in the city of Stockton.

The purpose of this spur is to give rail transportation service to that portion of the city of Stockton lying north of the Stockton Channel, this portion of the city having heretofore been without the advantage of such service.

In addition to the public roads, streets and alleys mentioned in the application, the applicant amended the application at the hearing to include the crossing of Madison street in the city of Stockton.

There was no dispute as to the public convenience and necessity requiring a railroad to be constructed along the route proposed and over the various roads, streets and alleys mentioned in this proceeding, and the question to be determined was the manner of crossing and the protection necessary to be provided at each of the crossings applied for.

It was also brought out at the hearing that in addition to the roads to be crossed the proposed railroad would also cross a waterway, known as the Smith Canal. The question was raised as to the manner of crossing the Smith Canal but the crossing of this waterway does not appear to be a matter over which this Commission has jurisdiction, aside from the fact that the construction of this, as well as any other portion of the railroad, should be made in a manner which will be consistent with public safety for the operation of trains.

It is estimated that the railroad will operate two freight trains each way daily over this proposed track in the immediate future and that this traffic may ultimately be increased to as many as three, or, possibly, four trains each way daily.

The board of supervisors of San Joaquin County has, in Ordinance No. 368, granted the Western Pacific Railroad Company a franchise to construct its track across the various county roads involved in this application, and by Ordinance No. 745 the city council of the city of Stockton has also granted the railroad a franchise to construct this track at grade across the various city streets and alleys mentioned in this application.

There was no objection made to the construction of this track at grade across any of the public roads, highways and streets concerned in this proceeding except at the crossing of Lower Sacramento Road.

There was some opposition expressed to the granting of permission to construct the proposed track at grade across this important highway, it being contended that this road was of sufficient importance to justify a separation of grades. There was no dispute as to the fact that the view to the east of the proposed grade crossing at this point would be seriously obstructed by trees and buildings and that the

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crossing was at the foot of a five per cent grade leading from the southerly levee of the Calaveras River. The Commission's transportation engineer pointed out that there appeared to be no practical prospect of materially improving this poor view. Southbound vehicular traffic moves down the south approach of the Calaveras River bridge at high speeds. Under these circumstances a grade crossing at this point would involve more than the ordinary hazards.

A traffic count taken at the location of this proposed crossing for one week between the hours of 6 a.m. and 6 p.m. is summarized in the following table:

TRAFFIC COUNT.

Twelve Hours per Day, from 6 a. m. to 6 p. m.

Lower Sacramento Road at Calaveras River Bridge.

	May 10, 1922,* Wednesday	May 11, 1922, Thursday	May 12, 1922, Friday	May 13, 1922, Saturday	May 14, 1922, Sunday	May 15, 1922, Monday	May 16, 1922, Tuesday	Average 12-hour day
Automobiles (N.)	357	450	458	530	902	478	475	548
Automobiles (S.)	352	408	438	479	627	376	358	456
Trucks (N.)	72	86	100	80	67	100	93	88
Trucks (S.)	62	68	91	65	55	84	83	76
Horse vehicles (N.)	18	33	37	27	11	40	27	29
Horse vehicles (S.)	15	22	31	24	8	32	20	23
Motorcycles (N.)	6	6	5	6	12	4	1	6
Motorcycles (S.)	7	2	5	6	20	2	4	7
Bicycles (N.)	10	12	2	18	13	14	14	12
Bicycles (S.)	6	13	7	16	15	19	18	14
Pedestrians (N.)	17	17	16	14	21	24	27	20
Pedestrians (S.)	8	7	5	17	20	6	11	11
Totals (N.)	480	604	618	675	1,016	660	637	704
Totals (S.)	450	517	577	607	745	519	494	586
Grand totals	930	1,121	1,195	1,382	1,761	1,179	1,131	1,290

NOTE.—(N.) indicates northbound traffic and (S.) indicates southbound traffic.
*Count on May 10, 1922, taken from 9 a. m. to 12 noon and from 1 p. m. to 6 p. m.

Records of traffic census taken under the direction of the county surveyor at this same point on the twentieth day of each month for the past eighteen months show an average of 1219 vehicles per day. This count on April 20, 1922, gave 1575 vehicles, and on May 20, 1922, gave 1370 vehicles.

These traffic counts show that this road carries a very heavy vehicular traffic.

Studies of the possibility of separating grades at this point indicate that the practical manner in which separation should be made would be to elevate the railroad above the county road, and it was estimated that to so elevate the railroad and provide a satisfactory structure to carry the railroad over the road would cost approximately $45,000 in addition to land purchases or property damage. In view of the relatively small amount of railroad traffic that is to be reasonably expected to move over this spur it does not seem that an expenditure

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of $45,000 is justified if reasonable protection can be given the public in any other manner.

The engineering department of the Commission made a considerable study of this particular crossing and substantially concurred in the estimate of cost of separating the grades. The Commission's transportation engineer recommended that if a grade crossing were determined upon, the following protection should be provided:

(a) The installation of an automatic flagman.

(b) The requirement that all westbound trains come to a stop and sound a whistle before passing over the crossing.

(c) The requirement that eastbound trains reduce speed to not more than six miles per hour in passing over the crossing.

(d) The requirement that any train movement in which a car precedes the locomotive in passing over this crossing in either direction that the train come to a stop and that a human flagman go ahead and flag the crossing.

With these provisions for the protection of this crossing effected, it does not seem that an expenditure required to separate the grades would be justified at this time.

The engineering department of the Commission is on record as approving the granting of this application for the crossing of all the other public roads, highways and streets concerned in this proceeding at grade, subject to the recommendation that grades of approach at the proposed crossing of the Country Club boulevard should not exceed two (2) per cent, as this is a fairly important road and the railroad purposes to cross it at an elevation of a little over three feet above the present roadway.

It is noted that two of the county roads, namely, West Park avenue and Raymond avenue, which exist only on the subdivision maps, extend westerly from Carlton avenue to the westerly side of the railroad right of way, and under these circumstances these two streets should be legally abandoned west of the easterly right of way line of the railroad as they serve no useful purpose beyond that point and probably should never be physically opened.

It is also noted that within a distance of approximately 2000 feet from Pershing street to Stockton street there are ten proposed crossings, most of which will cross streets or alleys that, at the present time, are not actually used. Under these circumstances the construction of the track will not, at the present time, create a serious public hazard. It is probable, however, that with the industrial development of this territory that may be expected to follow the construction of the railroad, these streets will come to be used to a considerable extent and industrial buildings will be constructed so as to seriously interfere

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with the view. It would be to the public interest, ultimately, to eliminate several of these crossings and it is believed that with cooperation between the property owners, the city, and the railroad, a street could be constructed parallel with and adjacent to the railroad which would eliminate a number of these crossings without placing a serious burden upon any one at the present time.

Although most of the crossings in the city of Stockton will probably have seriously obstructed views, due to industrial buildings, this is a condition that is practically unavoidable in industrial territories of this nature, and future protection should be provided when traffic and other conditions so justify.

The following form of order is submitted:

ORDER.

The Western Pacific Railroad Company having filed an application for permission to construct a spur track at grade across certain public roads, highways and streets in the county of San Joaquin, and in the city of Stockton, a public hearing having been held, the Commission being apprised of the facts, and the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the establishment of crossings at grade across the public roads, highways and streets hereinafter indicated, at the locations and under the conditions hereinafter specified; therefore,

It is hereby ordered, that permission be and it is hereby granted the Western Pacific Railroad Company to construct a spur track at grade across County road through Sperry tract, Lower Sacramento road, Country Club boulevard, North drive, West Park avenue, Raymond avenue, Monte Diablo avenue, Acacia avenue, Flora Bund avenue, Park street, Carlton avenue, San Juan avenue, all in the county of San Joaquin, and at grade across Buena Vista avenue, Pershing street, Fremont street, Orange street, Argonaut street, alley between Argonaut street and San Jose street, San Jose street, alley between San Jose street and Yosemite street, Yosemite street, alley between Yosemite street and Stockton street, Stockton street, Edison street, Harrison street, Lincoln street and Madison street, all in the city of Stockton in the location shown on the maps marked "Exhibit C-1," "Exhibit C–2," "Exhibit C–3," filed with the application, said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

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(2) The crossings of County road through Sperry tract; Lower Sacramento road, Country Club boulevard, North drive, Monte Diablo avenue, Acacia avenue, Flora Bund avenue, Carlton avenue, San Juan avenue, Buena Vista avenue, Fremont street, alley between San Jose street and Yosemite street, Yosemite street, alley between Yosemite street and Stockton street, Stockton street, Harrison street, Lincoln street, and Madison street shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with grades of approach not exceeding four (4) per cent except that the grades of approach at said crossing of Country Club boulevard shall not exceed two (2) per cent; said crossings shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) An automatic flagman shall be installed and maintained at the expense of applicant at the crossing of Lower Sacramento road; said automatic flagman to be of a type and installed in accordance with the plans or data approved by the Commission.

(4) No train shall be operated over said crossing of Lower Sacramento road in a westerly direction without having first come to a stop and sounded a whistle at a distance of not more than fifty (50) feet from said crossing. No train shall be operated in an easterly direction over said crossing of Lower Sacramento road at a speed in excess of six (6) miles per hour. No train in which a car precedes the locomotive shall be operated over said crossing of Lower Sacramento road in either direction without having first come to a stop and having been preceded by a human flagman sent ahead for the purpose of warning approaching highway traffic.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(6) The authorization herein granted for the installation of said crossings shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(7) This order is made upon the express condition that West Park avenue, Raymond avenue and Park street in the county of San Joaquin, and Pershing street, Orange street, Argonaut street, alley between Argonaut street and San Jose street, San Jose street, and Edison street in the city of Stockton, are not now actually constructed and open to travel at their respective points of crossing; and said order shall not be deemed as authorization for the construction or opening of said last named streets to public use and travel across said railroad track.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and pro-

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tection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of July, 1922.

DECISION No. 10720.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A LINE OF RAILROAD FROM A POINT NEAR WHITTIER BOULEVARD AT THE SOUTH CITY LIMITS OF THE CITY OF WHITTIER, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, TO, THROUGH AND TO THE SOUTH CITY LIMITS OF THE CITY OF FULLERTON, COUNTY OF ORANGE, SAID STATE, CROSSING AT GRADE BY MEANS OF OVERHEAD STRUCTURES, AND BENEATH CERTAIN LINES OF RAILWAY, PUBLIC ROADS, STREETS AND STATE HIGHWAYS.

Application No. 2987.

Decided July 15, 1922.

GRADE CROSSINGS—STEAM RAILROAD—JOINT USE OF TRACKS.—The Commission holds that it has no jurisdiction under the laws of California to order one railroad to permit another railroad to use its tracks or facilities constructed on a private right of way.

RELOCATION OF TRACKS—FRANCHISE—JURISDICTION.—The Commission holds that it has no jurisdiction in connection with franchises granted to a railroad by a city and no power has been conferred upon it to enable it to order the relocation of tracks in a city.

Albert Launer, City Attorney, for City of Fullerton, Petitioner for rehearing.
F. H. Lyon, City Attorney, for City of Fullerton, Petitioner for rehearing.
A. S. Halsted and *Fred E. Pettit, Jr.*, for Los Angeles and Salt Lake Railroad Company.
S. M. Reinhaus, for Southside Welfare and Improvement Association of Fullerton.
Austin E. Longcroft, for Automobile Club of Southern California.
C. R. Allen, for K. B. Norswing Company of Fullerton.

MARTIN, *Commissioner*.

OPINION ON APPLICATION OF CITY OF FULLERTON FOR REHEARING AND MODIFICATION OF PRIOR ORDER.

The city of Fullerton filed, on March 27, 1922, an application for rehearing in the above entitled matter, alleging that since the rendition of Decision No. 4516, dated August 8, 1917, traffic conditions on South Spadra road had materially changed; that traffic has greatly increased and the installation of a grade crossing by Los Angeles and Salt Lake Railroad as authorized in said decision appeared a menace to the protection of life and property; that the Santa Fe crossing was a great inconvenience and to a certain extent dangerous, and that the construction of the new Salt Lake grade crossing one-quarter mile away authorized in said decision was a real menace to traffic and pedestrians.

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The city suggested in its application that the situation be thoroughly investigated and that the Commission endeavor, if possible, to arrange a separation of grades at this point, suggesting that the Los Angeles and Salt Lake Railroad might be induced to use the present tracks and right of way of The Atchison, Topeka and Santa Fe Railway Company or to locate parallel and adjacent thereto, to minimize traffic dangers. It was also stated that the city was confronted with a request of a great majority of the property owners in the vicinity of the proposed new crossing to prevent, if possible, the construction of a new crossing at grade.

Public hearings were held before Commissioner Martin in Fullerton on April 13 and 28, 1922. At the second hearing it developed that an election had taken place in Fullerton since the first hearing and Mr. Launer had been succeeded by Mr. Lyon.

In its original application the Salt Lake asked for authority to construct crossings at grade over public highways on a proposed extension of its Santa Ana branch between Whittier and to and through Fullerton, South Spadra road being among these highways. This street is through Fullerton, the route of the state highway from Los Angeles to San Diego, and is an important street, carrying a heavy traffic.

At the first hearing Los Angeles and Salt Lake Railroad Company filed a return to the order to show cause which had been issued. In this answer the history of its Santa Ana branch was reviewed, including the results of conferences with the representatives of the city of Fullerton regarding relocation of the line through the city, and it was stated that it would cost the railroad the additional sum of approximately $152,900 to move its location to a site parallel and a short distance southerly of the Santa Fe; also that there is no provision in the laws of the State of California authorizing any governmental body to order one railroad to permit another to use its tracks or facilities constructed on a private right of way, as is the Santa Fe in the city of Fullerton, and that while the transportation act of 1920 provides for the use by one carrier of the terminal facilities of another, under the conditions here no possible construction thereof would place the Santa Fe tracks through the city in this category.

The Salt Lake stated at the hearing that could any reasonable arrangement be made with the Santa Fe it would have no objection to operating its trains over the Santa Fe tracks through Fullerton, but had no idea that this could be arranged.

The sum above noted was disputed, notably by Southside Welfare and Improvement Association, and a large part of the evidence found in the record is with reference to this matter. But little of this evi-

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dence is, however, pertinent to the issues raised in this proceeding, which appear to be as follows:

1. Joint use of the Santa Fe tracks through the city of Fullerton by the Salt Lake.

2. Relocation of the Salt Lake to a location south of and adjacent to the Santa Fe.

3. Separation of railroad and highway grades at the existing Santa Fe crossing of South Spadra road.

4. Separation of railroad and highway grades at the proposed crossing of the Salt Lake and South Spadra road.

None of the parties apparently being willing to approach the Santa Fe as to the joint use of its facilities, the Commission in the interim between the hearings asked the Santa Fe and Salt Lake if they could agree to the joint use of the former's tracks through Fullerton, either with or without the use of other facilities, such as stations and spur tracks. The record shows that the Santa Fe and Salt Lake were not able to come to any agreement. Since also, as to the first issue above mentioned, I am of the opinion that this Commission has no jurisdiction, the application for rehearing should, as to this issue, be denied.

As to the second issue, it may be noted that the city of Fullerton some five years ago granted Los Angeles and Salt Lake Railroad Company a franchise and that to relocate the line as proposed by the city would require another franchise or an amendment of the first franchise. This Commission, of course, has no authority in connection with these franchises and has no powers conferred upon it which enable it to order the relocation desired by the city and therefore, as to this issue, the application of the city should also be denied.

A traffic count on Sunday, April 9, 1922, introduced by the city, shows 8019 vehicles moving along South Spadra road and over the Santa Fe crossing between 6 a.m. and 10 p.m. Another count introduced at the second hearing by the Commission's engineering department, and taken on April 18 and 19, from 6 a.m. to 8 p.m., shows a total of vehicular movement of 6369 vehicles at the Santa Fe crossing and 4915 vehicles at the location of the proposed Salt Lake crossing, authorized in Decision No. 4516.

The separation of grades at the Santa Fe crossing was considered by itself and in connection with grade separation of the Salt Lake if the latter were located adjacent to the Santa Fe. Four of the five city trustees were asked as to the position they would take as to the city paying a part of the cost if grade separation were ordered. Three of them appeared favorable and the engineering department of the Commission was instructed to prepare estimates of the cost of a subway.

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At the second hearing the engineering department of the Commission presented (Commission's Exhibit 1), estimates of the cost of subways, all predicated upon depressing South Spadra road under the railroad tracks, as follows:

(a) Subway under four existing Santa Fe tracks	$163,665
Same except 6% grades instead of 5% and stairs instead of ramps for sidewalks	130,000
(b) Subway under four existing Santa Fe tracks and one track of Salt Lake if located in Walnut avenue	189,182
(c) Subway under Salt Lake tracks if located as proposed, approximately 1300 feet south of Santa Fe	77,418

No exception was taken to these figures.

After the presentation of the above estimates the city trustees were again asked if they were in favor of the city bearing any of the expense of grade separation, and there being a change in the personnel of the board since the previous hearing, a majority was opposed to this.

The question of grade separation at the Santa Fe crossing was not made an issue by the city, either in its original application for rehearing or by amendment thereof; the Santa Fe was not served with an order to show cause why the grades at its crossing should not be separated, and did not enter an appearance. Therefore, as to this crossing, there is nothing before the Commission requiring a decision as to the Santa Fe crossing.

Since the evidence indicates that the Salt Lake probably will not for many years run more than one train each way per day across South Spadra road, the cost of installing a subway at its crossing costing approximately $80,000 is not in my opinion warranted by the hazard that would be created by this one train. Taking in connection with this the fact that the trustees are opposed to any payment by the city for grade separation, I have come to the conclusion that that part of the city's application requesting the separation of grades should be denied.

I submit the following form of order:

SECOND SUPPLEMENTAL ORDER.

City of Fullerton having made application for amendment of prior order, Decision No. 4516, public hearings having been held, the matter having been submitted and being ready for decision;

It is hereby ordered, that for the reasons stated in the foregoing opinion, said application of the city of Fullerton be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of July, 1922.

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DECISION No. 10722.

IN THE MATTER OF THE APPLICATION OF GOLDEN GATE FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 6316.

Decided July 15, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Golden Gate Ferry Company in its supplemental petition filed in the above entitled matter on July 10, 1922, asks the Railroad Commission to make its order authorizing it to let contracts for the building of one additional ferry boat; to use proceeds from the sale of its capital stock to finance the cost of such ferry boat; and to issue, sell and deliver the remaining unissued stock authorized by Decision No. 8511, dated January 3, 1921, as amended, on or before January 1, 1923.

The Commission, by Decision No. 9703, dated November 4, 1921, authorized applicant to enter into contracts for the construction of a ferry boat to be built according to plans and specifications filed with the Commission on October 26, 1921, and to use $325,000 of proceeds from the sale of its stock to pay the cost of such boat.

This boat has been completed and is now in operation. The cost of the boat is reported at approximately $325,000. In addition, the company reports that in order to give half-hour service, it has chartered the ferry boat "Aven J. Hanford" from the Rodeo-Vallejo Ferry Company. It is now proposed to build a second ferry boat according to the same plans and specifications heretofore filed with the Commission on October 26, 1921, to take the place of the "Aven J. Hanford," it being applicant's opinion that public convenience and necessity require that a half-hour service be established and maintained by it between San Francisco and Sausalito.

The record shows that these plans and specifications provided for the construction of a double shaft, bow and stern screw, sawed frame auto ferry boat with two decks, capable of carrying approximately eighty-five automobiles and five hundred passengers, and equipped with two 500 Brake horsepower Diesel engine units of 200-250 revolutions per minute, suitable for direct connection to 340 kilowatt generators and exciters.

It is thought that the boat now proposed to be built will cost about $325,000, this amount consisting of $150,000 for the hull, $150,000 for the equipment and $25,000 for engineering, supervision and architectural fees.

The Commission has heretofore authorized the company to issue and sell $1,000,000 of the capital stock on or before July 1, 1922, the

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proceeds from such sale to be expended as directed by the Commission. Applicant reports that up to July 1, 1922, it had received subscriptions for $772,200 of stock and that there remained unpaid, on account of such subscriptions, the sum of $260,024.65. It asks that the Commission extend the time within which it might issue the remaining stock to and including January 1, 1923.

The Commission has given consideration to applicant's requests and believes they should be granted as herein provided;

It is hereby ordered, that Golden Gate Ferry Company be and it is hereby authorized to let contracts for the building of one additional ferry boat, such boat to be constructed according to the plans and specifications heretofore filed in this proceeding on October 26, 1921.

It is hereby further ordered, that Golden Gate Ferry Company be and it is hereby authorized to expend not exceeding $325,000 of the proceeds obtained from the sale of the stock authorized by Decision No. 8511, dated January 3, 1921, as amended, to pay the cost of building its proposed boat.

It is hereby further ordered, that the time within which Golden Gate Ferry Company may issue, sell and deliver the stock authorized by Decision No. 8511, dated January 3, 1921, as amended, be and it is hereby extended to and including January 1, 1923.

It is hereby further ordered, that the order in Decision No. 8511, dated January 3, 1921, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this fifteenth day of July, 1922.

DECISION No. 10726.

IN THE MATTER OF THE APPLICATION OF MINARETS AND WESTERN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AND BONDS.

Application No. 7995.

Decided July 19, 1922.

SECURITIES—RAILROAD UTILITY—BONDS—GUARANTEE.—As the utility proposes to issue bonds approximately equal to the estimated cost of its road and equipment and the purchaser (the parent company) does not agree to hold the same until maturity, the Commission held that the bonds should be guaranteed by the parent company or the latter's stockholders or by other provision in the deed of trust, giving added security to the issue.

Goudge, Robinson and Hughes, by *Herbert J. Goudge,* for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Minarets and Western Railway Company asks permission to issue and sell $50,000 of common stock and $2,200,000 of 6 per cent 20-year bonds

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for the purpose of acquiring rights of way and building a standard gauge railway extending from Friant to Crane Valley, a distance of about 39.3 miles and a line, about 4.6 miles in length, extending from Pinedale Junction (formerly known as Setch), a station on the Clovis branch of the Southern Pacific, to the townsite of Pinedale, where the mill of the Sugar Pine Lumber Company will be located.

Sugar Pine Lumber Company and its stockholders have caused applicant corporation to be organized. Applicant has an authorized stock issue of $1,000,000, divided into 10,000 shares of $100 each. It is now actively engaged in building its railroad. Up to and including May 30, 1922, it had expended for such purpose the sum of $735,560.92, all of which money it obtained from the Sugar Pine Lumber Company. The total cost of applicant's road and equipment is estimated by its engineer at $2,194,703.

E. H. Cox, president of Minarets and Western Railway Company and vice president of Sugar Pine Lumber Company, testified that the lumber company has under its definite control a forest estimated to contain 1,400,000,000 feet of lumber; that adjacent to their holdings are other forest lands containing approximately 1,000,000,000 feet of lumber, and that the Sugar Pine Lumber Company is now engaged in building a mill near Fresno with a capacity in excess of 500,000 feet of lumber per day. It is for the purpose of transporting logs to the mill and the lumber and by-products from the mill to the Southern Pacific tracks that applicant is constructing its railway. Though applicant will receive substantially all of its revenue, so far as can be foreseen now, from the transportation of lumber for the Sugar Pine Lumber Company, nevertheless the road will be operated as a common carrier.

At this time applicant asks for a preliminary order authorizing the issue of $50,000 of stock. Later it will file a complete copy of its deed of trust and then ask for an order authorizing the issue and sale of its bonds. It proposes to issue bonds approximately equal to the estimated cost of its road and equipment. E. H. Cox and his associates have agreed to purchase the bonds at 97 and accrued interest. If the proceeds from the bonds prove inadequate to finance the construction of applicant's road, the Sugar Pine Lumber Company will advance to applicant such an amount as may be necessary to complete the road. The purchasers of the bonds have not agreed to hold the same until maturity. The record, as a matter of fact, shows that if there should develop a market for the bonds after the road is completed and in operation, they will endeavor to sell the bonds. In view of the amount of bonds which applicant asks permission to issue and the relation of such

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an amount to the estimated cost of applicant's road, and in view of the nature of traffic which applicant will handle, I believe that the payment of applicant's bonds should be guaranteed by the Sugar Pine Lumber Company, or by the stockholders of the lumber company, or some other provision or provisions should be included in applicant's deed of trust giving added security to the bonds. Though it appears that applicant's deed of trust will be a first lien on all of its properties, I do not believe that such a lien is sufficient security for the amount of bonds which applicant intends to issue and, therefore, suggest that in preparing applicant's proposed deed of trust particular attention be given to the provision or provisions relating directly or indirectly to the security on which the bonds rest and the covenants and agreements on behalf of the company referring to the payment of the bonds.

I herewith submit the following form of preliminary order:

ORDER.

Minarets and Western Railway Company having applied to the Railroad Commission for permission to issue stocks and bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the stock herein authorized is reasonably required by applicant, and that at this time a preliminary order should be made in this proceeding authorizing the issue of said stock;

It is hereby ordered, that Minarets and Western Railway Company be and it is hereby authorized to issue and sell, on or before October 1, 1922, for cash, at not less than par, $50,000 of its common capital stock and use the proceeds for the purpose of paying in part the cost of constructing its line of railway referred to in this application, or for the purpose of paying indebtedness incurred in connection with the construction of said line of railway;

Provided, that Minarets and Western Railway Company will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of July, 1922.

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DECISION No. 10728.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7488.

Decided July 19, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The California-Oregon Power Company having reported that during the month of May, 1922, it expended for capital purposes the sum of $251,502.10, as shown in some detail in "Exhibit A," attached to the second supplemental petition filed in the above entitled matter, and having asked permission to use $251,502.10 of the proceeds obtained from the sale of the bonds authorized by Decision No. 10009, dated January 21, 1922, as amended, to finance these reported expenditures:

And the Commission having given consideration to applicant's request and being of the opinion that it should be granted, as herein provided; therefore,

It is hereby ordered, that the California-Oregon Power Company be and it is hereby authorized to use not exceeding $251,502.10 of the proceeds obtained from the sale of the bonds authorized by Decision No. 10009, dated January 21, 1922, as amended, to finance its expenditures for capital purposes made during May, 1922, and reported in "Exhibit A," attached to the second supplemental petition in this decision.

It is hereby further ordered, that the order in Decision No. 10009, dated January 21, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this nineteenth day of July, 1922.

DECISION No. 10742.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF ITS FIRST AND REFUNDING SIX PER CENT BONDS, AND THREE HUNDRED THIRTY-ONE THOUSAND ONE HUNDRED DOLLARS PAR VALUE OF ITS PREFERRED OR COMMON STOCK.

Application No. 7439.

Decided July 19, 1922.

BENEDICT, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 9988, dated January 12, 1922, in the above entitled matter, authorized San Diego Consolidated

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Gas and Electric Company to issue and sell, on or before December 31, 1922, and subject to such other conditions as are contained in the order in said decision, $1,500,000 of first and refunding Series "A" 6 per cent bonds, and either $331,100 of its 7 per cent preferred stock or $331,100 of its common stock, or such portions of either as it may elect to issue in the aggregate amount of $331,100.

Applicant reports that it has sold the stock but none of the bonds. Since January 12, there has been a decline in interest rates. To take advantage of the declining interest rates, applicant has postponed the sale of its bonds.

In its supplemental petition filed in the above entitled matter on July 1, 1922, and in the amendment to such petition filed on July 14, 1922, applicant asks permission to sell, in lieu of the $1,500,000 of first and refunding Series "A" 6 per cent bonds authorized by Decision No. 9988, $1,500,000 of Series "B" 5 per cent bonds, due March 1, 1947, and, if necessary, to issue interim certificates for a like amount pending the delivery of definitive bonds.

The company asks permission to sell its bonds at not less than 80 per cent of their par value and accrued interest. By Decision No. 9988, the Commission authorized the company to sell 6 per cent bonds at not less than 93 per cent of their par value and accrued interest, and also authorized applicant to issue stock for the purpose of financing construction items not covered on account of bond discount. In view of the fact that applicant now proposes to sell its bonds at not less than 80 per cent of their face value and accrued interest, it requests permission to issue additional stock in the amount of $198,600 to finance construction items not covered because of the additional discount. If applicant's bonds were sold at 80, the effective interest rate, taking into account only the discount on the bonds, would be about 6.65 per cent, while the effective interest rate at which applicant was heretofore authorized to issue 6 per cent bonds was about 6.7 per cent. I believe that a minimum price of 80 and accrued interest for applicant's 5 per cent bonds is too low. It occurs to me that applicant should be able to obtain at least 82 and accrued interest for its 5 per cent bonds, and this order will fix the minimum price for which the bonds may be sold at that figure. As a result of changing the minimum price, applicant will not suffer so large a discount and will have to issue, to finance construction items not covered by the sale of bonds, $171,000 of its preferred stock instead of $198,600.

A public hearing has been held on the supplemental application filed in the above entitled matter. The Commission has considered applicant's request and believes that it should be granted as herein provided, and that the money, property or labor to be procured or paid for by the

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issue of the bonds and stock herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that the Commission's order in Decision No. 9988, dated January 12, 1922, in the above entitled matter, be and it is hereby modified so as to permit San Diego Consolidated Gas and Electric Company to issue in lieu of the $1,500,000 of first and refunding Series "A" 6 per cent bonds, due March 1, 1939, $1,500,000 of first and refunding Series "B" 5 per cent bonds, due March 1, 1947, or a like amount of interim certificates pending the delivery of definitive bonds in exchange for such certificates, and sell said bonds or interim certificates for cash at a net price of not less than 82 per cent of their face value and accrued interest.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, for cash, at a net price of not less than 96½ per cent of its par value, $171,000 par value of its 7 per cent cumulative preferred stock and use the proceeds to pay in part the cost of acquiring and constructing the additions and betterments referred to in the order in Decision No. 9988, dated January 12, 1922.

It is hereby further ordered, that applicant's first supplemental application in the above entitled matter, in so far as it relates to the issue of $27,600 of preferred stock, be and it is hereby dismissed without prejudice.

It is hereby further ordered, that the order in Decision No. 9988, dated January 12, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twentieth day of July, 1922.

DECISION NO. 10744.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE ADEQUACY OF SERVICE, THE FACILITIES FOR SERVICE, AND THE REASONABLENESS OF THE RATES, RULES AND REGULATIONS GOVERNING GAS SERVICE OF SACRAMENTO GAS COMPANY IN LODI, CALIFORNIA.

Case No. 1733.

Decided July 20, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 10600, in the above entitled matter, this Commission provided with reference to the rates therein established

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that such rates would be subject to increase or decrease on the basis of 3.2 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price of $1.91 per barrel upon approval of the Railroad Commission; and

Whereas, Sacramento Gas Company now makes statement that on July 15, 1922, the price paid for oil was reduced to $1.66 per barrel, this being a decrease of 25 cents per barrel from the base price established in Decision No. 10600;

It is hereby ordered, that the rates set forth in Decision No. 10600, in Case No. 1733, designated as Schedule 1, be and they are hereby reduced by eight (8) cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922.

It is hereby further ordered, that Sacramento Gas Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twentieth day of July, 1922.

DECISION No. 10748.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER APPROVING A PROPOSED RECLASSIFICATION OF ITS CAPITAL STOCK, AND AUTHORIZING THE ISSUANCE AND SALE OF NINETY-FIVE THOUSAND SHARES OF SEVEN PER CENT CUMULATIVE NONPARTICIPATING PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 8032.

Decided July 21, 1922.

Roy V. Reppy, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In the above entitled application Southern California Edison Company asks permission to reclassify its stock and issue and sell $9,500,000 of 7 per cent cumulative nonparticipating preferred stock to retire outstanding second preferred stock and for other purposes specified in subdivision (*b*) of section 52 of the Public Utilities Act.

Applicant has an authorized stock issue of $100,000,000 divided into $4,000,000 of first preferred, $12,500,000 of second preferred, $83,500,000 of common. As of July 14, 1922, it reported $4,000,000 of first preferred, $12,029,900 of second preferred and $46,378,200 of common stock outstanding, and $10,815,400 of common stock subscribed. The $46,378,200 of common stock includes $10,836,628 of stock controlled by the company through ownership of the Pacific Light and

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Power Corporation stock, leaving net common stock outstanding in the amount of $35,541,572.

It is of record that applicant's board of directors at a regular meeting held June 23, 1922, voted unanimously to amend paragraph six of applicant's articles of incorporation by

(a) Changing the name of first preferred stock to original preferred stock;

(b) Reducing the second preferred stock to $12,029,900 par value and the common stock to $60,000,000 par value;

(c) Creating in the place of the second preferred stock and common stock eliminated by such reduction $23,970,100 par value of preferred stock;

(d) Making second preferred stock exchangeable for preferred stock and retirable out of the proceeds of preferred as well as common stock.

A special meeting of the stockholders of applicant will be held on August 1, 1922, to act on the proposed amendment. If the amendment receives the vote of two-thirds of applicant's subscribed stock, it will become effective. Applicant will then have an authorized stock issue of $100,000,000, divided into $4,000,000 of original preferred, $12,029,900 of second preferred, $23,970,100 of preferred, and $60,000,000 of common.

Under its present articles of incorporation, applicant may retire its second preferred stock upon the payment of $103 per share and accumulated dividends. All of the $12,029,900 of second preferred stock is owned or controlled by H. E. Huntington. He has agreed to sell this stock to the company for $9,453,322, or at a price of approximately $78 per share. It is the company's intention, if permitted by the Commission, to issue and sell preferred stock and use proceeds obtained from the sale of such stock and from the sale of common stock to retire its second preferred stock, amounting to $12,029,900. If this stock is retired, it can never be reissued under the proposed amended articles of incorporation. The amount of authorized second preferred stock shall be decreased to the extent of $12,029,900 and the amount of authorized preferred stock shall be correspondingly increased. When the second preferred stock is retired, applicant's $100,000,000 of authorized stock will consist of $4,000,000 of original preferred, $36,000,000 of 7 per cent cumulative nonparticipating preferred stock, and $60,000,000 of common stock.

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In its Exhibit No. 4, applicant estimates its construction expenditures for 1922 and for the six years thereafter as follows:

1922	$27,344,300 00
1923	18,055,800 00
1924	13,829,000 00
1925	22,290,000 00
1926	16,209,000 00
1927	15,975,000 00
1928	11,800,000 00

Applicant under its present financial structure has but two sources from which to get moneys to finance permanently its construction expenditures, such sources being the sale of common stock and the sale of bonds. Its officers believe that it should have a third source of funds, namely, the sale of preferred stock. It is argued that there is a group of investors who will not buy common stock, but who are interested in acquiring preferred stock and that the company will be able to get its money cheaper through the sale of bonds, preferred stock and common stock than through the sale of only bonds and common stock.

The Commission's attention is also called to the fact that one individual now owns and controls $12,029,900 of applicant's outstanding stock and that it is not to the best interest of the company to have so large an amount of stock eventually pass into the hands of owners who might take a different attitude towards the management of these properties than the present owner of the stock.

The $9,500,000 of 7 per cent cumulative nonparticipating preferred stock which applicant asks permission to issue will, according to law, be offered by applicant to its stockholders. H. E. Huntington has agreed to acquire $4,000,000 of the preferred stock and pay therefor $4,000,000 in cash. He will thus provide $4,000,000 of the $9,453,322 which he is to receive for his $12,029,900 of second preferred stock. The remaining $5,453,322 which applicant has agreed to pay for the second preferred stock it intends to obtain from the sale of common stock and preferred stock. In its Exhibit No. 3, applicant reports that on July 11, 1922, it had on hand from the sale of common stock the sum of $1,544,900. On account of common stock sold on the installment plan, applicant estimates that on or before December 31, 1922, it will receive an additional sum of $1,900,000 from the sale of such stock, making a total of $3,444,900. In another proceeding now pending before this Commission, it asks permission to use the $3,444,900 to redeem, in part, its second preferred stock. Deducting the $3,444,900 from the $5,453,322 leaves a balance of $2,008,422 that must be obtained from the sale of 7 per cent preferred stock or from other sources. If the last mentioned amount is obtained from the sale of preferred stock at par, it will use in effect

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$6,008,422 to retire second preferred stock, leaving $3,491,578 available to finance new construction.

The immediate effect of the retirement of applicant's second preferred stock as herein proposed, will be an increase of $63,505 in applicant's annual dividend payments and a reduction of $2,529,900 in applicant's outstanding capitalization. However, the increase in the dividend payments can be offset by the sale at par of about $6,500,000 of 7 per cent preferred stock instead of selling a like amount of common stock on which applicant is paying 8 per cent dividend on par. If applicant will continue with its construction program as outlined, it will be required to sell large amounts of stock and should be able to effect substantial savings through the sale of the preferred stock.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to reclassify its stock and issue $9,500,000 of 7 per cent cumulative nonparticipating preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to reclassify its stock as proposed in its Exhibit "B," filed in this proceeding, and to issue and sell for cash, at a net price of not less than par, $9,500,000 par value of its 7 per cent cumulative nonparticipating preferred stock.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted will not become effective until applicant has filed with the Commission a certified copy of its articles of incorporation amended as proposed in this application.

2. Of the proceeds realized from the sale of the stock herein authorized, the sum of $6,008,422 may be used to retire, in part, applicant's outstanding second preferred stock. The remaining proceeds and such part of the $6,008,422 not used to retire second preferred stock shall be placed and held in applicant's treasury, or in a special fund, and shall be disbursed only for such purposes as the Railroad Commission may authorize in a supplemental order or orders. The proceeds may be consolidated with the proceeds obtained from the sale of stock, the issue of which has heretofore been authorized by the Commission.

3. Southern California Edison Company shall keep such record of the issue and sale of the stock herein authorized, and of the disposition of

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the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10749.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided July 21, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER, APPLICATION NO. 7465.
FOURTH SUPPLEMENTAL ORDER, APPLICATION NO. 7715.

The Railroad Commission, by Decision No. 9989, dated January 12, 1922, as amended, in Application No. 7465, and by Decision No. 10294, dated April 8, 1922, as amended, in Application No. 7715, authorized San Joaquin Light and Power Corporation, among other things, to issue and sell $5,000,000 of its seven per cent cumulative prior preferred stock and $3,500,000 of Series "D" 6 per cent unifying and refunding mortgage bonds. The orders of the Commission, as amended, authorize the use of proceeds from the sale of $3,564,037.53 of the stock and the proceeds from the sale of $1,527,609.41 of the bonds to finance construction expenditures made prior to June 1, 1922, and to pay outstanding indebtedness. The remainder of the proceeds may be expended only for such purposes as the Commission will authorize by a supplemental order or orders.

The company reports that between May 31, 1922, and July 1, 1922, it expended the amount of $411,130.15 for necessary additions, extensions, improvements and betterments to its properties as set forth in

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detail in the statement of expenditures against estimates filed with the Commission on July 21, 1922, and that this money was obtained from earnings or represents current indebtedness.

Applicant asks permission to use proceeds from the sale of $396,037.20 of the bonds authorized in Application No. 7715 and from the sale of $15,092.95 of the stock authorized in Application No. 7465 to finance, in part, the reported expenditures.

The Commission has given consideration to applicant's request and believes it should be granted as herein provided; therefore,

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds from the sale of $15,092.95 par value of the stock authorized by Decision No. 9989, dated January 12, 1922, as amended, and the proceeds from the sale of $396,037.20 face value of the bonds authorized by Decision No. 10294, dated April 8, 1922, as amended, for the purpose of paying indebtedness incurred in making the expenditures referred to in this order or of reimbursing its treasury on account of earnings used for such expenditures; provided,

That only such portion of the cost of the expenditures herein authorized as is properly chargeable to capital account under the uniform classification of accounts prescribed by the Railroad Commission be financed with the proceeds from the sale of the stock and bonds herein authorized.

It is hereby further ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, and the order in Decision No. 10294, dated April 8, 1922, as amended, shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10755.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT PREFERRED STOCK.

Application No. 8029.

Decided July 21, 1922.

Glenn D. Smith, for Applicant.

BY THE COMMISSION.

OPINION.

Ontario Power Company asks permission to issue and sell, at not less than par, 410 shares ($41,000 par value) of its 7 per cent preferred

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stock for the purpose of financing construction expenditures from February 1, 1922, to May 31, 1922.

A hearing was had on this application before Examiner Westover at Los Angeles on July 20.

Ontario Power Company has an authorized stock issue of $1,500,000, divided in to $900,000 of common and $600,000 of 7 per cent preferred. Of the common stock $380,000, and of the preferred stock $244,220, par value, was outstanding on May 31, 1922. Applicant's funded debt as of the same date is reported at $406,000, consisting of $274,000 of first mortgage 5 per cent bonds, $72,000 of 7 per cent serial gold notes, and $60,000 of 7 per cent trust notes. Its notes, payable, as of the date of the hearing on this application, are reported at $34,000. Its accounts payable are only of a nominal amount.

For 1921 applicant reports gross operating revenues of $266,371.79, and operating expenses, including taxes and charges for depreciation, amounting to $184,761.02, leaving net operating revenues of $81,610.77. After taking into account applicant's nonoperating income and deducting its interest charges, applicant had available for the distribution of dividends and other surplus deductions, the sum of $62,319.65. During 1921, it declared dividends amounting to $41,848.06; of this amount, $11,548.06 was paid to the holders of preferred stock and the remainder to the holders of common stock.

Applicant reports that from February 1, 1922, to May 31, 1922, it expended for additions and betterments the sum of $41,656.91. This sum was expended for the following purposes:

Substation equipment	$2,276 54
Transformers	4,504 85
Meters	2,945 00
Motor vehicles	5,888 44
Pole line construction	26,942 08
Total	$41,656 91

Further detail of applicant's construction expenditures is set forth in exhibits filed in this proceeding.

Glenn D. Smith, applicant's general manager, testified that the company had already received subscriptions for $9,000 of the stock. In his opinion, the company can readily sell the $41,000 of stock to present consumers with little or no expense to the company.

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue and sell $41,000 of its 7 per cent cumulative preferred stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured

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or paid for by such issue is reasonably required by applicant, and that this application should be granted as herein provided;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue and sell, on or before June 30, 1923, for cash, at not less than par, 410 shares ($41,000 par value) of its 7 per cent cumulative preferred stock, and to use the proceeds to reimburse its treasury, in part, on account of earnings expended for the construction of additions and betterments from February 1, 1922, to May 31, 1922, and to pay indebtedness incurred for the purpose of securing money to pay for the construction and betterments from February 1, 1922, to May 31, 1922; provided,

That applicant will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10756.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK OF THE PAR VALUE OF EIGHT HUNDRED THOUSAND DOLLARS.

Application No. 5097.

Decided July 21, 1922.

SECURITIES—STOCK—EQUIPMENT TRUST—BONDS.—Applicant's request for permission to modify a former order authorizing the sale of stock and to permit the creation of a mortgage on all its property and a serial equipment trust issue is denied, the Commission holding that applicant had not yet sold enough stock to warrant the conclusion that the enterprise it is promoting can be financed.

STOCK SALES—PROTECTION OF BUYERS.—The Commission holds that after part of a stock issue has been sold, a change in the method of financing should not be permitted if by such change there results a material modification of the understanding under which stock has heretofore been sold.

I. M. Golden, for Applicant.

BENEDICT, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

San Francisco-Richmond Ferry Company requests the Railroad Commission to make an order:

(1) Modifying Decision No. 8144, dated September 24, 1920, so as to permit the issue of only $350,000 of common stock instead of $800,000.

(2) Permitting it to make and deliver its mortgage in the sum of $800,000, the same to be a first lien on two steel ferry boats to be here-

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after constructed and upon terminals to be hereafter constructed at Richmond, and to cover and be a first lien upon all real property owned and hereafter acquired by applicant.

(3) For the purpose of taking up and liquidating said mortgage, permit it to create a serial equipment trust and to issue 7 per cent serial equipment trust notes or to create a bond issue or such other form of indenture as may be appropriate, such indenture to be a lien on all of the company's property now owned or hereafter acquired.

(4) To extend until December 31, 1922, the time within which the stock authorized by Decision No. 8144 may be sold.

(5) Permitting it to withdraw and expend as needed the proceeds obtained from the sale of stock now on deposit with Wells Fargo Nevada National Bank of San Francisco for the purpose of paying engineering fees, the cost of bulkheading, dredging and building ferry slip and wharf.

In its order of June 29, 1922, the Commission extended to and including December 31, 1922, the time within which applicant may sell the $800,000 of stock authorized to be issued under the authority granted in Decision No. 8144, dated September 24, 1920, as amended. It is of record that applicant has sold something over $50,000 of this stock and that it has on hand, obtained from the sale of stock, the sum of $38,000.

Applicant reports that a shipbuilding company has agreed to construct for it two steel ferry boats at an approximate cost of $800,000, and advance the money necessary to pay for the boats, provided applicant execute a mortgage in favor of the shipbuilding company on all of the property it now owns or which it may hereafter acquire, including the boats. It is represented to the Commission that the shipbuilding company does not ask applicant to advance any moneys until the boats are completed. Upon the completion of the boats, applicant proposes to sell $800,000 of 7 per cent equipment trust certificates or bonds in order to secure the moneys necessary to pay for the boats.

The $350,000 of stock which applicant now asks permission to issue is allocated by it to the following purposes:

$100,000 00	for wharves, slips, etc.;
80,000 00	to cover payment of shipbuilding company's profits;
60,000 00	for the acquisition of land in Richmond;
30,000 00	to pay architect's fees;
27,900 00	of stock to be sold for cash;
48,000 00	of stock now sold for cash and paid for.
$349,400 00,	or in round figures—$350,000.00.

Of the $350,000 of stock, it is of record that at least $173,500 will be issued in payment for land, architect's fees and profits to the shipbuilding company. The attention of the Commission is also called to the fact

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that applicant will urge contractors engaged in the building of its terminal properties to accept stock in payment for part of their services rendered, leaving some of the $100,000 of stock appropriated for wharves, slips, etc., to be sold for cash.

Applicant's boats are estimated to cost $800,000 and are to be paid for from the sale of equipment trust certificates or bonds. It is of record that the company may get 92 to 94 for its 7 per cent equipment trust certificates or bonds. No definite offer has been received. Were the company to sell $800,000 of equipment trust certificates or bonds at 92, it would realize $736,000. If they are sold at 94, it would realize $752,000. A sum ranging from $48,000 to $64,000 will have to be obtained from some other source. There is nothing in the testimony to show from what source the company would obtain the money represented by the discount on its equipment trust certificates or bonds.

I have reviewed the record in this case and the Commission's decision with more than ordinary care and have reached the conclusion that the Commission's decision should not at this time be modified in any particular. The company now has authority to sell, on or before December 31, 1922, $800,000 of its common stock. The terms and conditions under which this stock may be sold are outlined in the Commission's decision. The ferry service which applicant intends to inaugurate is one that should, in my opinion, be initially financed through the sale of stock. It is only in this manner that the credit of the company can be established permanently. Applicant has not yet sold enough stock to warrant the conclusion that this enterprise can be successfully financed.

The fact should not be loss sight of that some $50,000 of stock has been sold and paid for in cash. It may be assumed that the people who bought this stock did so with the knowledge of the Commission's decisions in this proceeding. Those decisions should not be changed if by such change there results a material modification of the understanding under which stock has heretofore been sold.

Not until applicant has sold enough stock to cover the cost of acquiring and constructing the terminal facilities and at least one boat will the Commission give further consideration to the issue and sale of equipment trust certificates or bonds by applicant.

I recommend that the supplemental application, except to the extent that it has heretofore been granted, be dismissed without prejudice.

I herewith submit the following form or order:

THIRD SUPPLEMENTAL ORDER.

A hearing having been held upon the supplemental petition filed by applicant in the above entitled matter on June 14, and the Commission

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having considered applicant's request and by its order of June 29, 1922, extended the time within which applicant may issue the stock authorized by the order in Decision No. 8144, dated September 24, 1920, as amended, and the Commission being of the opinion that the supplemental petition in all other respects should be dismissed without prejudice;

It is hereby ordered, that the supplemental petition filed by applicant on June 14, 1922, in the above entitled matter, be and it is hereby dismissed without prejudice in all particulars except as granted by the Commission's order of June 29, 1922, extending the time until December 31, 1922, within which applicant may issue and sell the $800,000 of common stock, the issue of which is authorized by Decision No. 8144, dated September 24, 1920, as amended.

The foregoing first supplemental opinion and third supplemental order are hereby approved and ordered filed as the first supplemental opinion and third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10757.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 7840.

Decided July 21, 1922.

Roy V. Reppy, for Applicant.

BENEDICT, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

Southern California Edison Company, in its supplemental petition filed in the above entitled matter, asks permission to use the proceeds obtained from the sale of common stock, the issue of which the Commission has heretofore authorized, to retire, in part, second preferred stock. To this end, it asks the Commission to modify Decision No. 10476, dated May 17, 1922, so as to permit it to use $380,738.04 of the $2,280,738.04 for said purposes instead of using the $380,738.04, as now directed by the Commission, to finance construction expenditures. In its "Exhibit 3," applicant estimates that, including the $380,738.04, it will obtain from the sale of common stock to the end of the current year the sum of $3,444,900.

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A hearing has been had upon the company's first supplemental petition filed in the above entitled matter. The Commission has considered applicant's request and believes that it should be permitted to use not exceeding the sum of $3,444,900 obtained, or which may be obtained, from the sale of common stock to retire second preferred stock.

It is therefore ordered, that the orders in decisions in Applications Nos. 2743, 4790, 5312, 6426, 7373 and 7840 be and they are hereby modified so as to permit Southern California Edison Company to use not exceeding $3,444,900 obtained, or which may be obtained, from the sale of common stock, the issue of which has heretofore been authorized by the Commission, to retire second preferred stock, said $3,444,900 to include the $380,738.04 referred to in this order and in the first supplemental petition filed on July 12, 1922, in the above entitled matter.

It is hereby further ordered, that the orders in decisions in Applications Nos. 2743, 4790, 5312, 6426, 7373 and 7840 shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10759.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO NORTHERN RAILROAD, A CORPORATION, SACRAMENTO NORTHERN RAILWAY, A CORPORATION, THE WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA: (1) AUTHORIZING SAID SACRAMENTO NORTHERN RAILROAD TO SELL ALL OF ITS PROPERTIES, RIGHTS AND FRANCHISES TO SAID SACRAMENTO NORTHERN RAILWAY; (2) AUTHORIZING SAID SACRAMENTO NORTHERN RAILWAY TO ISSUE, IN CONNECTION WITH SAID TRANSACTION, NINE HUNDRED AND NINETY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS CAPITAL STOCK, AND (3) AUTHORIZING THE WESTERN PACIFIC RAILROAD COMPANY TO PURCHASE SAID CAPITAL STOCK OF THE SACRAMENTO NORTHERN RAILWAY AND THE OUTSTANDING BONDS OF SAID SACRAMENTO NORTHERN RAILROAD AND TO REIMBURSE ITSELF FOR SUCH EXPENDITURES FROM THE PROCEEDS OF ITS BONDS.

Application No. 7147.

Decided July 21, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Good cause appearing:

It is hereby ordered, that paragraph 2 of the order in Decision No. 9620, dated October 18, 1921, as modified, reading as follows:

2. Sacramento Northern Railway be and it is hereby authorized to purchase the properties of Sacramento Northern Railroad; to issue and sell, for cash, on or before

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August 1, 1922, at not less than par, $1,000,000 of its common stock; to assume the payment of the outstanding bonds of the Sacramento Northern Railroad and the performance of the covenants and conditions of the mortgage securing the payment of said bonds and to execute all deeds and assignments necessary to complete the transfer of the properties which it is hereby authorized to acquire.

be and it is hereby modified so as to read:

2. Sacramento Northern Railway be and it is hereby authorized to purchase the properties of Sacramento Northern Railroad; to issue and sell, for cash, on or before February 1, 1923, at not less than par, $1,000,000 of its common stock; to assume the payment of the outstanding bonds of the Sacramento Northern Railroad and the performance of the covenants and conditions of the mortgage securing the payment of said bonds and to execute all deeds and assignments necessary to complete the transfer of the properties which it is hereby authorized to acquire.

It is hereby further ordered, that paragraph 8 of the order in said Decision No. 9620, as modified, reading as follows:

8. The authority herein granted will apply only to such transfer of properties as may be effected on or before August 1, 1922.

be and it is hereby modified so as to read as follows:

8. The authority herein granted will apply only to such transfer of properties as may be effected on or before February 1, 1923.

It is hereby further ordered, that the order in Decision No. 9620, dated October 18, 1921, as modified, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-first day of July, 1922.

DECISION No. 10760.

SAN BERNARDINO CHAMBER OF COMMERCE

vs.

MOTOR TRANSIT COMPANY, A CORPORATION.

Case No. 1752.

IN THE MATTER OF THE APPLICATION OF RICHARD BRUCE CREGAR FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE LINE BETWEEN SAN BERNARDINO, CALIFORNIA, AND LITTLE BEAR LAKE AND BIG BEAR LAKE, AND OTHER MOUNTAIN RESORTS NEAR SAID LAKES, AND BETWEEN SUCH LAKES AND POINTS AND REDLANDS, CALIFORNIA.

Application No. 7784.

Decided July 21, 1922.

AUTO STAGES—CAPITAL ACCOUNT—EXPENSES.—Deferred payment on equipment and interest charges thereon, being chargeable to capital account, should not be set up as estimated operating expenses, as the financing of a proposed business should not be from the anticipated revenue to be derived from the conduct of such business.

AUTO STAGES—SERVICE—COMPLAINTS—COMPETITION.—It is held that complaints in the instant case do not justify either the revocation of the certificate of the defendant company nor the granting of an additional operative right over the

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route served. It is further held that the volume of business does not justify the establishment of a competing line, and were a competing line to be established the ultimate result is declared to be the financial ruin of one or both lines and the deprivation of the public of the service to which it is entitled.

COMPLAINTS—CORRECTION.—As to specific complaints, sustained, steps necessary to correct them are ordered.

Swing and Wilson, by *Ralph E. Swing* and *Grant Holcomb*, for Complainant in Case No. 1752.
H. W. Kidd, for Defendant in Case No. 1752 and for Protestant, Motor Transit Company, in Application No. 7784.
J. W. Barbee, for Applicant in Application No. 7784.
R. C. Gortner and *O. A. Smith*, for Pacific Electric Railway Company.
E. T. Lucey, for Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMMISSION.

OPINION.

San Bernardino Chamber of Commerce, a civic organization, complains of Motor Transit Company, a corporation, defendant herein, and alleges that defendant corporation is not sufficiently equipped for and does not intend to provide and will not make an effort to provide for the safe, convenient and comfortable transportation of passengers in and through the San Bernardino Mountains and over and along the "Rim-of-the-World Drive" during the season of 1922, and is not equipped for and does not intend to provide means for the transportation and handling of freight to and from hotels and resorts in the San Bernardino Mountains. The complaint further and specifically alleges:

A. Failure, neglect and refusal on the part of defendant to cooperate with complainant and hotel and resort owners and operators to provide a convenient schedule for the arriving and departing of guests.

B. Failure and neglect on the part of defendant, and its officials, to cooperate with or consider the time schedule as to the arrival and departure of connecting trains at San Bernardino.

C. Failure and neglect on the part of defendant to procure and have on hand a sufficient number of safe and comfortable conveyances for transportation of passengers to and from the San Bernardino Mountains, and to and from hotels, resorts and similar places.

D. That equipment and conveyances are now provided by defendant are insufficient, inadequate and improper, and that defendant does not intend to provide suitable or proper equipment.

E. Failure and neglect on the part of defendant to provide experienced and safe drivers for conveyances to be used in the handling and transporting of freight and passengers to and from San Bernardino Mountains, and to and from hotels, resorts and other places.

F. Failure and neglect on the part of defendant to provide and that defendant does not intend to provide sufficient and convenient places for procuring of tickets for transportation over and through the

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San Bernardino Mountains, and to and from the hotels, resorts and other places there located.

G. That schedules showing times of departure and arrival and routes of travel as announced by defendant for the season of 1922 are improper, inconvenient and unsuitable for the public.

H. That the rates and time schedule proposed and as issued by defendant for the season of 1922 are in conflict with advertising which has been issued by owners of hotels, resorts and other places for the current season.

I. That defendant has in the past, and upon information and belief complainant alleges it will in the future, disregard the safety, convenience and comfort of passengers, and that it will make no effort to deliver freight promptly or carefully.

J. That officials of defendant corporation have made promises to provide safe, convenient and suitable transportation for passengers and prompt and safe transportation of freight to and from mountain points, and failure and neglect on the part of defendant to keep or carry out such promises, and that by reason of such failure owners and operators of hotels, resorts and other places and the public generally have lost confidence in officials and agents of defendant corporation and have ceased to have confidence in the ability of defendant corporation to provide an adequate passenger and freight service for the San Bernardino Mountains.

Complainant prays for an order of the Commission requiring defendant to provide safe, adequate and comfortable conveyances for the transportation of passengers and freight; that adequate service be provided for the transportation of freight; that safe and proper equipment and safe and experienced drivers be procured for such service; that defendant be required to maintain a safe and convenient schedule throughout the season of 1922, both for passenger and freight service; that the exclusive franchise heretofore awarded be revoked and set aside; and that an opportunity be given to other persons and corporations to enter into the business of transporting passengers and freight to and from the San Bernardino Mountains, and to and from the hotels, resorts and other places in said San Bernardino Mountains, in competition with defendant corporation.

Defendant, Motor Transit Company, filed its answer denying material allegations of the complaint and alleging that its operations in the San Bernardino Mountains have at all times been conducted at a loss; that the passenger and freight service is carried on under great difficulties, due to physical conditions, and that defendant has at all times endeavored to furnish a service of the best kind and expects to improve such service in the future; further, alleges that there is not a sufficient

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volume of business, either passenger or freight, warranting the operation of more than one transportation company and alleges that if competition be permitted by other authorized carriers the result of such competition would be that none of the carriers would be able to continue in business or obtain sufficient revenue therefrom to adequately care for the needs of the traveling public.

Richard Bruce Cregar, applicant in Application No. 7784, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers, freight and express between the city of San Bernardino and Little Bear Lake, and between Little Bear Lake and Big Bear Like and Bear Valley resorts, to Camp Eureka, Bear Valley Tavern, Harvey's to Forest Home, and all intermediate points in the San Bernardino Mountains. From Forest Home to Redlands via Lugonia avenue, thence north on Orange street to East Highlands via Base Line road to the city of San Bernardino.

Public hearings on the above entitled proceedings were conducted by Examiner Handford at San Bernardino on May 24, 25, 26 and 27, and at Los Angeles on June 2, 3, 9, 10 and 12, at which hearings the matters were consolidated for the purpose of receiving evidence and decision, were duly submitted on June 12, 1922, and are now ready for decision.

The service, against which complaint is made, is that operated by the Motor Transit Company, a corporation, defendant and protestant in these proceedings, between San Bernardino and various mountain points, operation being conducted over what is known as the "Rim-of-the-World" route; between San Bernardino and Arrowhead Lake; between San Bernardino and Big Bear via City Creek road; between Arrowhead Lake and Big Bear; between Big Bear and Redlands; and between Redlands and Forest Home. The operative rights of the Motor Transit Company were those secured from the Railroad Commission by its Decision No. 8886, on Application No. 6299, under date April 20, 1921, authorizing the transfer of the operative right from O. R. Fuller to said Motor Transit Company. The operative rights of O. R. Fuller were acquired by an order of the Railroad Commission (Decision No. 7280, on Application No. 5429, dated March 18, 1920), granting and approving a transfer of the operative rights from Max Green, Perry H. Green and Nettie D. Phillips, doing business under the fictitious name of San Bernardino Mountain Auto Line, to O. R. Fuller.

Both freight and passenger service are rendered by the defendant in accordance with schedules filed with the Railroad Commission, the operation as regards passenger business being largely seasonal and confined principally to the period of each year extending from June

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1st to October 1st. The peak season, both as to passengers and freight, is embraced in the months of July and August of each year. During the winter months many of the routes are impassable, due to road and weather conditions, and during such period access to the mountain resorts is via what is known as the "Desert Route" from San Bernardino via Victorville. The published schedules and tariffs of the Motor Transit Company call for winter operation only to the snow line, but it appears from the evidence that during the winter of 1921-1922 that efforts were made to conduct the operation beyond the snow line whenever practicable to reach such Bear Valley points as were accessible and to which freight or passengers were destined from San Bernardino.

Twenty-eight witnesses were heard in behalf of complainant and it was stipulated that the testimony of eight additional witnesses if called would testify, one, as to three failures of service, and seven, who were resort owners, to the fact that passengers had made complaint as to uncomfortable cars, as to failure to have seats availble to protect reservations alleged to have been made, and that a competing line should be authorized.

Mr. X. G. Bartlett, engaged in the camping and real estate business in Bear Valley, testified that the passenger service was unsatisfactory during the season of 1921, that the equipment was bad, that the seats of cars were not properly upholstered and that there were delays on the road, such conditions existing through the entire season, also that freight was noticed to arrive in bad condition.

Mr. Joseph S. Strawser, engaged in the real estate business in Bear Valley, testified that from twelve to fifteen thousand people were in Bear Valley during the season from June 15th to September 1st of each year; that stages of the Motor Transit Company were frequently late in arriving, although Mr. Strawser testified that he had never ridden on the stages. He is of the opinion that three or four lines into the valley would be a good thing and that competition is the life of trade.

Mr. E. E. Paige, the former agent of the Motor Transit Company, and who handled the business of such company in the San Bernardino Mountains in 1921, testified as to conditions during the term of his employment and that he had hired outside cars to care for overflow traffic whenever such condition existed.

Mr. Albert S. Brush, proprietor of the Big Bear Lake Tavern, testified that the condition of equipment was bad in 1921; that there were forty-one resorts to be served in Bear Valley and that, in his opinion, one line with comfortable cars was enough for the needs of such valley for some time to come. This witness states that from 85

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to 90 per cent of the patrons of his resort either come in their own machines or use some other method of transportation than that of the Motor Transit Company. Also that the freight service accorded by the defendant is good.

Mr. B. G. Holmes, a resort owner at Bear Lake, testified that the service in 1921 varied from good to bad to indifferent; that the stages via the Crest route were late in arrival three times out of four; that the stages ride uncomfortably although in charge of courteous drivers. This witness believes in competition as regards another line.

Mr. Charles A. Halloway, a camp owner at Big Bear Lake, testified that his patrons, who were passengers on the Motor Transit Company's line, complained of hard riding and uncomfortable cars. This witness had no complaint to make regarding freight service, although believes competition would be good for Bear Valley. This witness had never ridden on the stages of defendant company. Ninety per cent of the patrons of this resort arrive in their own cars and do not use the facilities of defendant company.

Mrs. Holloway, residing at Big Bear Lake, complained as to condition of equipment.

Mr. G. D. Ashbaugh, a reporter and correspondent of the San Bernardino "Sun" in the San Bernardino Mountains during the season of 1921, testified that in his opinion 75 per cent of the drivers employed in the passenger service were very good and all of the freight drivers; also he testified as to his observance of the character of equipment and service furnished, as noticed by him during the year 1921 in his travels over the lines in connection with his newspaper work.

Mr. Le Roy Stratton, in the cabin business on Big Bear Lake, testified that 30 per cent of his patrons come to his resort via the line of the Motor Transit Company; that cars were old and in poor condition. This witness hauls his own freight and believes that another competing stage line would be a good thing for all concerned.

Mr. C. C. Brown, operating Bartlett Camp at Pine Knot, testified that passenger service during 1921 was very poor and that he is in favor of another line. Had neither suggestions nor complaints to offer regarding freight service.

Mr. L. S. Skinner, secretary of the Bear Valley Chamber of Commerce, testified that in 1921 the principal cause of complaint was poor equipment and delayed arrivals; that during the latter part of the season of 1921 the service was improved and there were fewer complaints than in the earlier portion of the season. This witness is of the opinion that there should be a competing line, although stating that there was very little complaint as to the freight service.

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Miss Linta B. Small, residing at Pine Knot, Big Bear Lake, testified as to some patrons left over from the regular stages, but did not know whether or not reservations had been made in advance as required by the company. This witness suggests that more comfortable cars be used in the passenger service and indicates that there is need of another stage line in Bear Valley.

Mr. Phillip C. Carter, operating a resort, testified that practically all his guests made complaint as to service and is of the opinion that more comfortable cars and more regularity in arrival is necessary. The witness believes that another line is needed for competition.

Mr. R. H. Cash, employed in auto service work in Bear Valley, testified that he had heard complaints from patrons of the company as to hauling and believes that either improved service should be in evidence or a competing line should be authorized.

Mr. James Erwin, operating a resort known as Knight's Camp at Big Bear Lake, testified that, in his opinion, the equipment operated by defendant company was not suitable and that a competing line would be advisable, on the basis that the more lines operating the better situation for the resort owners, irrespective of whether the transportation business serving such resorts could be conducted at a profit or not. This witness is of the opinion that the present agent employed by the Motor Transit Company is a very competent man and a material improvement over those heretofore employed in the conduct of the mountain business of the defendant.

Mr. Carl W. Stillwell, operating Stillwell's Camp at Big Bear Lake, testified as to delayed stages and suggests that good cars and competition is desirable and that two lines would be desirable although not necessarily needing either of them as regards his resort.

Mrs. Ralph Hanan, located at Horseshoe Bend on the "Rim-of-the-World" drive, testified as to a delay in the delivery of ice cream and milk during the month of July, 1921, having but the one instance of complaint.

Mrs. Sarah E. Stocker, operating a camp known as "Swastika Lodge," testified as to her experience with uncomfortable cars and delayed stages, although having no complaint as to the freight service. This witness is of the opinion that additional service should be provided.

Mr. O. A. Smith, passenger traffic manager of the Pacific Electric Railway Company, gave testimony as regards the number of through tickets sold by his line in connection with that of defendant to San Bernardino mountain points and such statistics will be hereafter considered. This witness is of the opinion that public convenience and

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necessity requires an additional carrier in the San Bernardino Mountains and that, in his opinion, a car of the automobile type with a seating capacity not exceeding ten is the proper equipment to be used in mountain operation. This witness further testified that approximately five hundred complaints were received by his company against the service and facilities as afforded by the Mountain Auto Line, such complaints covering practically all phases of the operation, such as delayed cars and improper or uncomfortable equipment. It is the testimony of this witness that a few of these complaints were transmitted to an official of the Pacific Electric Railway Company at San Bernardino, but that the majority were filed away and that no action was taken thereon, for the reason that it was the opinion of the witness that it was useless to bring the matter to the attention of the responsible officials of the Motor Transit Company. In the opinion of the Commission an official of a transportation company, which transportation company is interested in a through route and joint rate and thereby comes in contact with the public who purchase tickets to be used over the through route, fails in his duty not only to the company by which he is employed, but also to the public, when numerous complaints of such nature are not given proper attention and such investigation that will enable the matters complained of to receive satisfactory adjustment and correction. Such complaints, if substantiated, not alone evidence the attitude of the public as to the character of service rendered but also interfere with the business of the company by whom witness is employed, on the basis that a dissatisfied passenger will either seek other methods of transportation or entirely eliminate any future prospective trips to vacation or resort points in the San Bernardino Mountains.

Mrs. E. L. Baylis, residing at Pine Crest Resort, testified as to uncomfortable equipment and lateness of arrival on schedules. This witness is of the opinion that two lines serving the San Bernardino Mountains would create more business for the resorts, but was not prepared to state if there had been business enough in the past to justify the operation of two lines. During the months of July and August, conceded to be the heaviest months of the season, stages were noticed to carry on an average of about three-quarters of their capacity and during other months of the year stages ran with but light patronage.

Mr. John R. Murray, San Bernardino manager of the Alfred Pure Ice Cream Company, testified that from sixty to one hundred tons of ice cream were shipped by freight into the San Bernardino Mountains each season, most of this ice cream being handled by defendant, Motor Transit Company. Had complaint as to his commodity being a long time in transit during the years 1920 and 1921, probably about fifteen

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complaints having been brought to his attention in the season of 1921. He testified that there is now an ice cream plant and refrigerator room in Bear Valley, from which point most of the complaints arose, although is not of the belief that this plant was erected solely because of delay in transportation. This witness has had no experience in riding on the stages of defendant and voiced no complaint regarding the passenger business.

Mr. John Baylis, interested in the resort at Pine Crest, testified regarding two equipment failures occurring during the present season of 1922, both of which were caused by broken axles. The witness also testified as to the passenger cars of defendant company being uncomfortable.

Mr. W. H. Rogers, secretary of the "Rim-of-the-World" Association, testified that, in his opinion, the installation of another stage line is desirable.

Dr. J. M. Baylis, interested in the resort at Pine Crest, testified that the passenger service was very bad. This witness considers that the present superintendent of the mountain division of the defendant company is a very capable man; also that he believes that a competing freight and passenger line is absolutely necessary for the preservation of the witness' resort business and that of the other resort owners in the San Bernardino Mountains, and for such reason is of the opinion that the public convenience and necessity requires an additional line. The testimony of this witness, as being interested primarily in the resort and not as to the transportation business, is of interest as to his judgment regarding the character of complaints made against the service rendered by the state company by patrons of his resort, as shown by the following abstract from the transcript in these proceedings:

Transcript, page 627, line 27 *et seq.:*

Mr. Kidd: Have you heard any complaints made by passengers or prospective passengers of the Motor Transit Company, and on investigating these complaints found the Motor Transit Company was not at fault?

A. I think that the people are badly spoiled———.

Q. That does not answer my question.

A. As a whole, I think a great many of their complaints are without foundation. They are peevish and ungrounded, and that is the defense I have made constantly.

Mr. Ralph E. Swing, one of the attorneys for complainant in this proceeding, testified at considerable length as to the development of the transportation business in the San Bernardino Mountains from an

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historical standpoint, concluding such testimony by outlining his opinion that public convenience and necessity required a competing line.

It was stipulated that the testimony of Mrs. Warren Smith, if called as a witness, would cover three failures of service; that the testimony of Mrs. Charles Rein, Cecil Brandenburg, J. G. Mitchell, F. H. Chadburn, Mrs. F. H. Chadburn, G. M. Bartlett and Gail Williams, all resort owners, would be that passengers at their respective resorts made complaint as to uncomfortable cars, failure to have seats available to protect reservations said to have been made by passengers and that one competing line should be authorized; Miss Margaret S. Campbell, employed at Pine Crest, that she would testify that the freight service was unsatisfactory, in that fruit and perishables came to the resort in damaged condition but without any knowledge on the part of the witness as to the cause of the damage.

Mr. W. F. Lemon, assistant service inspector of the Railroad Commission, was called as a witness for complainants and testified as to his report following an investigation of freight and passenger conditions in the San Bernardino Mountains, the reason for his investigation being informal complaints that had been filed with this Commission by the Bear Valley Chamber of Commerce.

Richard Bruce Cregar, applicant herein, proposes to establish an automobile stage line service for the transportation of passengers, freight and express, serving all points heretofore served by the Motor Transit Company, proposing to charge the same rates and fares as now in effect on the lines of the Motor Transit Company's mountain division, with some slight amendment of the rules and regulations appearing in such tariffs. This applicant proposes to operate between San Bernardino and Arrowhead Lake during the period May 1st to October 1st of each year in accordance with a schedule marked Exhibit "B," and filed with the application in this proceeding; to operate over the "Rim-of-the-World" route via Waterman Canyon and via Mill Creek during the period from June 15th to September 15th of each year in accordance with schedule appearing on Exhibit "B" of this application; to operate between San Bernardino-Redlands-Big Bear Lake, via Mill Creek, during the period from May 6th to October 1st of each year in accordance with the schedule appearing on Exhibit "B" attached to the application; to operate between San Bernardino and Big Bear, via City Creek, upon the completion of the Deep Creek cut-off, upon a schedule that will provide such service as the traffic may warrant, and in case of emergency the City Creek route to the Crest to be operated in lieu of via Waterman Canyon; to operate to and from San Bernardino and Big Bear Lake via the Desert Route through

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Victorville, as emergencies may occur, upon an unpublished schedule; and to establish service to resorts adjacent to and reached via the main lines, either by through or connecting service, as the traffic may from time to time warrant, such points being the Los Angeles City Playgrounds, Forest Home, Seven Oaks and Thousand Pines.

As regards freight service, applicant proposes to operate a daily service during the regular season of each year and in the winter months to operate combination passenger and freight cars once a week at such times as the roads are open so that such operation can be given for the benefit of the public.

Applicant proposes to use as equipment ten new Cadillac touring cars lengthened to accommodate ten passengers and the driver and, in addition to the ten new cars to be provided for regular service, will provide such other additional cars for emergencies and extra service as the traffic demands may require.

For the handling of freight and express traffic, applicant proposes to use two Mack trucks and two Reo speed wagons.

Applicant relies as justification for the granting of the application upon the following alleged facts: That the service heretofore and at present rendered by the Motor Transit Company has been and is totally inadequate and improperly serves the passenger, freight and express traffic along the routes herein proposed; that time schedules covering arrival and departure from various points have not been properly arranged to best serve the mountain resorts and the patrons thereof; that the Motor Transit Company has failed, neglected and refused to remedy such conditions, but has continued to operate when and as it saw fit, to the detriment and inconvenience of the inhabitants and patrons of the mountain resorts; that the Motor Transit Company has not used adequate and proper equipment to take care of traffic; and that at times said Motor Transit Company was unable to care for traffic; that applicant is informed, and believes, that the proposed service by the Motor Transit Company for the season of 1922 will be worse and more inadequate than it was in the season of 1921 with the result that the mountain resorts and patrons over such routes will not be as well served in 1922 as in the former year unless the application herein should be granted.

Applicant, R. B. Cregar, testifying in his own behalf, stated that he was now operating from Riverside to San Jacinto and Idlewild in which service he uses Cadillac cars, although does not use the extended type of such make of cars on the Idlewild run (which is somewhat comparable with the mountain conditions on the proposed San Bernardino Mountain line) for the reason that so many short turns exist on the route to Idlewild making the use of the extended type of car

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impracticable. This witness estimates the initial investment in equipment to provide the service proposed as follows:

10 new Cadillac cars at $3,520	$35,200 00
Cost of lengthening cars, 10 at $800 each	8,000 00
4 freight trucks (as hereinbefore described)	10,000 00
Total for equipment	$53,200 00

Applicant estimates that he will be able to advance $8,000 as a cash payment on this equipment and has been offered a loan on his unsecured note in amount $15,000, leaving a balance of $20,200 for which financial arrangements will require to be made. Applicant claims to have partially effected arrangements whereby an eighteen months period will be allowed for the deferred payments on the initial equipment to be used and that the deferred payments on equipment plus interest thereon would be paid for to the amount of 50 per cent, at least, from the earnings to be derived from the operation of the proposed lines. The applicant estimates 30 cents per mile as the expense of passenger operation, including depreciation and all other charges, and estimates that during the first season he will carry 10,000 passengers at an average fare of $5 each. As to freight operation, applicant estimates that the cost of operation with the equipment proposed to be used will be 15 cents per ton mile, such figure covering depreciation and all other items of operating expense.

Applicant, therefore, estimates a gross revenue from passenger service in amount $50,000 and from freight service an amount of $12,000, a total of $62,000. Against this gross revenue applicant estimates a total operating expense of $10,800 for freight and a total expense for passenger service of $46,822.50, or a total, including both freight and passenger, of $57,622.50, or a net profit for the one hundred days seasonal operation of $4,377.50. In the expenses applicant has figured an amount of $24,812.50 covering deferred payments on equipment purchases and interest thereon, and such items, being chargeable to capital expense, should not be set up as estimated operating expenses as the financing of applicant's proposed business should not be from the anticipated revenue to be derived from the conduct of such business.

Mr. C. L. Emerson, a witness in behalf of applicant, conducts a mountain resort at Idlewild and testified that he had personal knowledge of the ability of the applicant in the transportation business and that he had given first class service for the past three years to the resort at Idlewild conducted by this witness.

Mr. A. B. Mohr of Camp Angeles in the San Bernardino Mountains, offered as a witness in behalf of applicant, testified that the service of the Motor Transit Company was satisfactory with the exception of the matter of rates; that the schedules of the Motor Transit Company

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were maintained, but witness is of the opinion that another stage line is needed.

Mr. A. E. Warmington, director of sales of the Lake Arrowhead Company, called as a witness for applicant herein, testified that he knew nothing of conditions existing during the years 1920 and 1921. This witness is connected with the Lake Arrowhead Company, which is making a substantial investment in the establishment of a resort at Lake Arrowhead (formerly known as Little Bear Lake). Witness also testified that in his opinion a seven-passenger car of the automobile type was the best and most comfortable for the mountain service.

Mr. J. H. Lowe, operating Lowe's Camp, a resort in the San Bernardino Mountains, was called as a witness for defendant and protestant, Motor Transit Company. This witness testified that the service rendered by the Motor Transit Company in 1921 was 100 per cent better than that rendered in the previous season of 1920; that 90 per cent of the patrons of his resort did not use stages for their transportation; that if all the cars to be operated during the 1922 season were as good as the two eleven-passenger stages of the type placed on the line in the latter part of 1921 that the type of equipment can not be much improved; that he did not think cars of the automobile touring type would furnish satisfactory service; that he had received but one complaint from patrons of his resort during the season of 1922 and that, in his opinion, one line serving the routes herein sought was sufficient.

Mr. J. W. Stocker, engaged in the local transportation service in Bear Valley and also a director of the Chamber of Commerce of Bear Valley, called as a witness for defendant and protestant, testified that, in his opinion, the freight service as rendered by the Motor Transit Company during 1921 season was 100 per cent perfect; that the passenger cars operated by defendant were comfortable; that he knew of extra cars having been hired to care for overflow loads which the regularly scheduled stages could not accommodate; and that, in his opinion, the authorization of any additional service was unnecessary; also that 95 per cent of the people coming into Bear Valley used either their own or the conveyances of their friends and did not patronize the stage line.

Mr. Thomas H. Lanhoff, operating a restaurant and mountain inn, testified as a witness for defendant and protestant, and stated that, in his opinion, the eleven-passenger stages operated by the Motor Transit Company were comfortable, as much so as a seven-passenger touring car; that the freight service was satisfactory and that he did not think that there was enough business justifying the establishment of an additional line.

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Mr. Dad Skinner, president and manager of the Bear Valley Amusement Company, manager of the North Estates and Chamber Park Subdivision, manager of Pine Knot Lodge and United States Post Master at Pine Knot, a witness for defendant and protestant, Motor Transit Company, testified that the freight service rendered by the Motor Transit Company in 1921 was, in his opinion, as nearly perfect as it was possible to make it. This witness further testified that the large type of busses (twenty-passenger capacity) were first installed on the theory that this capacity of vehicle would handle a sufficient volume to eliminate the overhead expense and enable the rate to be kept at a point which would be attractive for vacationists and that the majority of the resort owners in Bear Valley approved the installation of the twenty-passenger type of bus, believing it to be good. However, it developed that the service rendered by such type of vehicle was most unsatisfactory resulting in frequent complaints by patrons of the stage company, of the resorts and of the resort owners themselves, the conditions finally resulting in an informal complaint by the Chamber of Commerce of Bear Valley requesting an investigation by the Railroad Commission and relief from the existing conditions. Following the investigation made by the Commission and one of the recommendations of the Commission as to the installation of a smaller type of stage, the Motor Transit Company arranged to construct a smaller type of eleven-passenger busses, two of which were completed and placed in service in the latter part of the season of 1921, and the Chamber of Commerce of Bear Valley voted to withdraw their complaint temporarily, and that following the installation of the two units of eleven-passenger capacity that a material improvement in the passenger service was noticeable. This witness is of the opinion that between ten and twelve thousand people were in Bear Valley in the month of August, 1921, the peak month of that season, and estimates that 90 per cent of the people going to Bear Valley use private machines. This witness is of the opinion that there is not sufficient business in the San Bernardino Mountains to justify the installation of a competing line.

Mr. E. G. Maddy, called as a witness for protestant and defendant, is the superintendent of the San Bernardino Mountain Division of the Motor Transit Company. He testified as to conditions surrounding five service failures which had occurred in the current season of 1922.

Mr. F. D. Howell, assistant general manager of the Motor Transit Company, testified as to certain exhibits introduced by defendant and protestant, which exhibits will be later discussed in this opinion.

Mr. S. W. Dillin, a witness for defendant and protestant, testified that he resided at Crestline and was formerly postmaster for a period of two years. His observation was that the drivers employed by the

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Motor Transit Company were very efficient; that the company had cared for overflow loads by procuring other cars to meet such emergency; and that the freight service was very good.

Mr. W. W. Murray, a witness for defendant and protestant, testified that he was the auditor of the Motor Transit Company and explained an exhibit showing the number and value of various items of equipment as used by the Motor Transit Company in the San Bernardino Mountain auto service.

Mr. O. R. Fuller, president and general manager of the Motor Transit Company, testified that when he personally took over the equipment in accordance with the decision of the Commission hereinabove mentioned, that he found all equipment in poor condition and that it was necessary to rebuild practically all of it. At this time there were no shop facilities at San Bernardino nor were the shop facilities of his company at Los Angeles sufficiently extensive to promptly accomplish the necessary work. It was also impossible to secure new equipment for the reason that conditions following the world war had resulted in orders to manufacturers far exceeding the available supply of equipment and such conditions existed at all points in the United States. The evidence of this witness as to the reason for the placing in service of the twenty-passenger stages on the mountain lines, against which type of stages universal complaint was made, is as follows:

Q. How is it you came to put these twenty-passenger Whites in the mountain service in the summer of 1921?

A. After the purchase of the mountain auto line I talked it over with several of the Bear Valley people regarding the advisability of an increase in the passenger rate, knowing that Mr. Green had made no money, or his predecessors had all lost money; we talked over the question of raising the rate and some of them thought it would be advisable to put on larger equipment with solid tires, something like that running from El Portal to Yosemite or Camp Curry, instead of trying to put on a passenger type of body and ask an increased rate.

Q. That is, they seemed to think it would be better to increase the size of the units and not disturb the rate?

A. Increase the size instead of the quantity—a reduced rate.

Q. Is not it a fact there was a general rate increase all over the system of the Motor Transit Company which was approved by this Commission.

A. Except Bear Valley.

Q. That is what I am coming to. Was there any increase in the rates there?

A. There was not.

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Q. Are you operating today—is your company, rather, the Mountain Auto Line, operating under the old, original rates?

A. Yes, sir.

This witness further testified that following the complaints as to the use of the twenty-passenger type of car, which evidently was at all times unsatisfactory for use on the lines herein discussed, that arrangements were made to construct eleven-passenger stages using a three-quarter ton White truck chassis with what is known as a one and one-half or two-ton rear end and differential. This type of car was also equipped throughout with six-inch pneumatic cord tires as against the solid tires used on the objectionable twenty-passenger type of equipment. To aid in the easy riding qualities of the car longer and specially constructed springs were used, it being the opinion of the witness based on many years' experience with automobiles and their accessories, that the equipment of cars for this type of service with air bottles or pneumatic shock absorbers is dangerous as regards their use over lines in mountain operation. The hazard of accident arises from the alleged difficulty in maintaining a uniform air pressure in all absorbers as, if such uniform pressure is not maintained, cars develop a tendency to sway, and in addition to the danger of overturning, there is liability of straining or breaking the underframe of the car. In the construction of the eleven-passenger type stages, arrangements were made for adequate springs in the seats and backs and to cover such seats and backs with a pantasote covering, an artificial leather of standard use for seat covering by automobile, railroad and other transportation companies. The seats in the twenty-passenger equipment were canvas covered and such type of covering was not durable or sanitary.

Mr. Arthur E. Isham, a witness for defendant and protestant, testified that he was secretary of the Redlands Chamber of Commerce and the Redlands Merchants and Manufacturers Association. The Redlands Chamber of Commerce has a membership of five hundred sixty, of which number sixty to seventy per cent are interested in Redlands in a business way. The Redlands Chamber of Commerce and the Merchants and Manufacturers Association, under date May 17, 1922, filed a protest against any change in the schedules of the defendant being made for the season of 1922; also, under date May 16, 1922, filed a formal protest against the granting of the application herein upon the basis that the desired certificate, if granted, would operate to cripple the present service, would necessitate a revision of schedules by the existing operator to the detriment of the interests and rights of the community of Redlands, and would introduce an element of competition which would ultimately reduce or destroy the present

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adequate service and schedules. This witness testified as to the discussions held among members of the organizations prior to the official action of such civic and commercial bodies.

There were also presented in this proceeding petitions signed by fifty-one persons commending the proposed service of applicant, Cregar, and requesting that the Commission authorize the service by granting the certificate prayed for.

A certificate signed by twenty-nine shippers and receivers of freight in Bear Valley was filed by defendant and protestant as an exhibit herein, such certificate alleging satisfactory service during the season of 1921, an improvement during the season, and that the service was first class during the latter part of such season; also that the signers of the certificate certified to having examined the proposed plan of operations for the season of 1922 and that they believe such plan to be more comprehensive and completely adequate for service during such season. Seven letters commending the service of defendant and protestant as proposed for the season of 1922 and as regards the substitution of stages of eleven-passenger capacity in place of the twenty-passenger previously operated, were filed as an exhibit herein. Exhibits were filed by defendant and protestant reflecting the following data:

Passengers Carried and Revenue Derived During Period, May to December, 1921, Inclusive.

Revenue	$65,290 26	Passengers 20,139
Interline tickets to mountain points accounted for by Pacific Electric Railway during period, May to December, 1921, inclusive:		
Number of tickets, 4,404, with revenue accruing to Motor Transit Company of		$21,404 75
Freight tonnage and revenue on mountain division of Motor Transit Company for calendar year 1921:		
Tonnage		5,185,293 lbs.
Revenue		$46,966 80

Investment of Motor Transit Company in Mountain Division.

Motor cars	$54,514 16
Machinery and tools	421 22
Furniture and fixtures	774 90
Material and supplies	5,388 66
	$61,098 94

Terminal Investment of Motor Transit Company at Redlands and San Bernardino, Used Jointly for Mountain Auto Line and Other Lines of Defendant's System.

San Bernardino—		
Lands	$6,000 00	
Buildings	20,000 00	
Additions and betterments	9,153 77	
		$35,153 77
Redlands—		
Land	$5,000 00	
Buildings	7,000 00	
Additions and betterments	3,194 17	
		15,194 17
Total		$50,347 94

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Motor Transit Company, Mountain Division, Revenue and Operating Expense for 1921.

(Includes operations of O. R. Fuller for four months of year.)

Revenue:		
Passenger	$67,689 06	
Special car	1,463 95	
Mail	1,669 80	
Freight	46,893 67	
Miscellaneous	41 32	
		$117,757 80
Operating expense:		
Maintenance equipment	$41,909 68	
Conducting transportation	55,630 55	
Traffic	1,496 49	
General	15,485 18	
		114,521 90
Net income from operation		$3,235 90

From the evidence in this proceeding it appears that while complaint has existed regarding the operation of the San Bernardino Mountain Division of the Motor Transit Company that, due partly to conditions for which the company was not responsible, the correction of such complaints as they developed has not been made as expeditiously as was desirable for the mountain resorts, the patrons of such resorts and of the line. We find no substantial or warranted complaint regarding the character of freight service rendered during 1922, and shall not further consider the matter of such class of service.

As to the passenger service, particularly as to the equipment against which the majority of the complaints were made, it appears that when the San Bernardino Mountain Auto Line was originally acquired by Mr. O. R. Fuller, predecessor in interest to Motor Transit Company, defendant herein, that the equipment was in poor condition and required reconstruction. Facilities available at that time were not such as to enable the reconstruction work to be promptly prosecuted either at San Bernardino or Los Angeles and conditions as regards the securing of new equipment were practically insurmountable in that the demand for new equipment far exceeded the supply. Following conferences with interested patrons of the line, Mr. Fuller arranged to place in service a twenty-passenger stage built on a truck chassis and equipped with solid tires. This experiment, anticipated to meet a condition whereby a larger number of passengers could be carried on an individual unit, thereby reducing the operating expense per unit and securing the maximum revenue therefrom, proved a failure from the standpoint of operation, comfort to passengers and in other respects. Upon the suggestion of the Railroad Commission, following an investigation into the operating conditions, as a result of complaint by the Bear Valley Chamber of Commerce, arrangements were made to develop a new type of equipment by constructing on a three-quarter

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ton chassis a passenger body to accommodate eleven passengers. To insure dependable operation, from a mechanical standpoint, it was arranged to apply heavier rear ends and differentials, using for such purpose the standard 1½-2 ton rear end, cars were equipped with six-inch pneumatic cord tires and a new design of springs was developed to aid in the comfortable riding qualities of the car. As to seats, arrangement was made for seats and backs to be built up with proper and comfortable springs and the seat and back covering was changed to an imitation leather instead of canvas, account better wearing qualities, cleanliness and sanitation. Two of these cars were completed and placed in service during the latter part of the 1921 season and such cars were evidently a radical improvement over the cars heretofore operated and which had been the subject of complaint. During the off peak season in the winter of 1921-1922 other cars were built to conform to the standard eleven-passenger design as represented by the two experimental cars constructed and placed in service during the latter part of 1921.

As to the matter of schedules as now operated, we find no substantial complaint as to the set-up of such schedules, but do find a considerable protest from the community at Redlands against the schedules as now in effect being changed. As to the freight schedules we find no material complaint. As to the observance of the schedules, complaint exists in that it is stated that cars are frequently late and in the majority of instances where late cars are involved, it appears that equipment trouble has been the principal cause therefor.

Complaint regarding passengers being unable to secure accommodations appear to be mainly accounted for by a lack of proper arrangement regarding the making of reservations. It is manifestly impossible for this carrier, or any other, to maintain a sufficient number of cars at all points in the San Bernardino Mountains to answer an immediate and unexpected demand. The character of the business is such that it is a limited seasonal one, not over one hundred twenty days in length, as regards peak movement, and while under proper conditions adequate service can be rendered, it is only by a system of requiring resorts, patrons and others to make their reservations a sufficiently reasonable time in advance of their trips to enable the authorized carrier to protect such reservations by having the necessary equipment ready for the trips and at the time passengers desire to move. There appear practically no complaints at San Bernardino, and none whatever from Redlands, that passengers were not transported to mountain points without unreasonable delay. A different condition, however, exists on the return journey from the mountain points, and in many cases delays complained of were not substantiated

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by a showing that the necessary reservation as required by the transportation company's regulations had been properly obtained and was of record with the stage company.

Complaint has existed, and from the evidence properly so, that the Motor Transit Company has not maintained either in San Bernardino or in the San Bernardino Mountains a competent representative with full power to meet any existing situation affecting the business that might be required. Arrangements have evidently been made for the current season to eliminate this cause of complaint in that the present superintendent appears to be fully competent and has the confidence of the resort owners and others as to his ability.

The establishment of proposed central stations in Bear Valley and at other points appears to be proper and in the interest of the public, in fact, was recommended by the representative of the Railroad Commission making investigation following complaint, was concurred in by the Bear Valley Chamber of Commerce and other interested parties. The actual work-out following the establishment of a central station appears to have resulted in some difficulty as regards the delivery of patrons to resorts which may be either located between San Bernardino and the central station, or which may be located at a point beyond the central station, necessitating in either instance the resort operators coming to the central station to receive their guests and conduct them to their ultimate destination. Like all innovations and changes in practices which may have grown up over a period of years, some initial troubles may be expected to develop before the proposed plan becomes fully effective. The matter as regards the present season can be cared for by requiring the defendant company to operate in a manner which will enable patrons of resorts that may be located between the central station and San Bernardino to be delivered at the resort as heretofore, but requiring such patrons, when leaving on the return journey, to make their reservations at the central station and take the outbound trip from such point.

The situation here presented has been that of rehabilitation of run-down service, seasonal in its character, being brought up to a reasonable point of efficiency under adverse conditions. It must be remembered that the active operative season lasts but a period of approximately 120 days, during which time all equipment must be operated to its maximum efficiency. During the first year's operation, under the management of O. R. Fuller and the defendant company, the line was taken over too late in the season to make the substantial reconstruction of equipment that its condition required. An error was made in the construction of the twenty-passenger type of stage, but both the management of the defendant company and such of the resort

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owners as were consulted were of the opinion that such type of equipment would be satisfactory. When the actual experience developed that the twenty-passenger equipment was unsatisfactory for the public and resorts served, the work of reconstruction of the new type was immediately begun and two experimental units were placed in service during the latter part of 1921, which were followed by the other equipment which has been prepared for use during the 1922 season. In these proceedings the Commission has not before it evidence that justifies the placing of approval on any factory design of passenger automobile for the exacting service required to be furnished. The defendant has designed and equipped cars with such additional items to enable reliable operation without breakdown, as would appear, from the experience developed in two seasons' operation, to satisfactorily meet the demand for equipment in proper operative condition. We know of no type of stock passenger automobile, and certainly of no stock type extended to provide additional seating capacity, that will operate continuously through the short season over the routes considered in this proceeding. There has been no evidence offered as to any comparable route which is successfully using, or at all, any extended type of passenger automobile which has been altered from the factory design and without increasing the strength of such parts which are subjected to excessive strain by the operating and road conditions here apparent. We are of the opinion that the type of equipment (eleven-passenger cars as reconstructed) should be given a fair trial during the current season under proper conditions of maintenance and upkeep. Other material items of complaint are possible of correction and the order herein will provide for such correction.

The items of complaint which have been sustained by the evidence do not justify either the revocation of the certificate of the Mountain Auto Line of the Motor Transit Company or the granting of an additional operative right over the routes served by it. Neither does the total volume of business, both freight and passenger, justify the establishment of a competing line, and were a competing line to be established the ultimate result would be the financial ruin of one or both lines and the public to be served would eventually be deprived of the transportation service to which it is entitled. There is evidence herein that substantially ninety per cent of the public going to the San Bernardino Mountains travel by private conveyance and that the business anticipated by resort owners and others is substantially the same as was present in the season of 1921. The establishment of a competing line would not, from the evidence, result in any new business being developed beyond the normal increase due to results following the advertisement of the advantages of the mountain resorts and camps.

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We are of the opinion, and hereby find as a fact, that the public convenience and necessity do not require the establishment of an automobile passenger, freight and express service over the routes herein as prayed for by complainant or as requested by applicant herein.

We are of the opinion that some of the allegations of the complaint have been sustained and that the necessary correction should be immediately made by defendant in accordance with the provisions of the following order:

ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted and the Commission being fully advised, and basing its order on the findings of fact as contained in the opinion preceding this order;

It is hereby ordered, that defendant, Motor Transit Company, immediately arrange for and hereafter strictly observe the following regulations as regards the operation of its San Bernardino Mountain Division between San Bernardino, Redlands and all points in the San Bernardino Mountains covered by schedules and tariffs as on file with the Railroad Commission:

1. Defendant is hereby required to provide, either at San Bernardino or at some central point in the San Bernardino Mountains, a competent employee to act as superintendent and to have charge of all matters pertaining to the operation of the San Bernardino Mountain lines, such employee to have full authority over all matters of operation arising in such territory and to be empowered to immediately act in all matters affecting the operation of such lines.

2. Defendant is hereby required to maintain regularly, during the season of each year extending from June 15th to October 15th, inclusive, at least two fully equipped passenger stages at such points in the San Bernardino Mountains where they will be most readily available to care for overloads, breakdowns or other operating causes which may interfere with the proper observance of time schedules or the needs of the public desiring transportation.

3. Defendant is hereby required to immediately make arrangements for central points in the San Bernardino Mountains at which points reservations may be made, in accordance with regulations as contained in tariffs and schedules of defendant, such reservations, when made, to be properly recorded, and after having been so made and recorded, to be protected by the reservation of seats in the cars operating on the schedules for which the reservation was selected by the prospective passenger. The obligation to protect such reservations, when made in accordance with the regulations of the carrier, is absolute and must hereafter be protected by the operation of as many additional cars

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as may be necessary to protect the demands of the traffic for which reservation has been made.

4. Defendant is hereby required to maintain, during the season from June 15th to October 15th, inclusive, of each year, one competent traveling inspector on and along the routes comprised in the Mountain Auto Division, such inspector to be fully conversant with operating conditions and to aid the superintendent hereinbefore authorized in the proper and efficient conduct of the lines comprised in the San Bernardino Mountain Division.

5. Defendant is hereby required to keep accurate record of all equipment failures resulting in delay in the observance of any passenger and freight schedule during the period from June 15th to October 15th of each year, to promptly investigate the reasons for such equipment failures, and until further order of this Commission, to file weekly with the Railroad Commission a statement of equipment failures resulting in delays, and the result of the investigation of the cause of such equipment failures. Defendant is further required to immediately establish a complaint record, such record to be kept in the office of the superintendent of the San Bernardino Mountain Division of defendant, and to show briefly thereon all complaints, verbal or written, which may be brought to the attention of the company through its agents, drivers, officials or other employees, or by the traveling or shipping public, such record to include the name of the complainant, the date of the incident complained of, the result of the investigation made into the complaint and the disposition made of such complaint, this record and all supporting data to be available at all times for the inspection by representatives of this Commission.

It is hereby further ordered, that as to the other items of the complaint herein, that said complaint be and the same hereby is dismissed.

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by Richard Bruce Cregar of an automobile stage line for the transportation of passengers, freight and express over the routes herein applied for; and

It is hereby further ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this twenty-first day of July, 1922.

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DECISION No. 10761.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION, FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.
Decided July 22, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9125 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates would be subject to increase or decrease by amounts as set forth therein upon approval of the Railroad Commission, based upon a change in the price paid for oil in the various communities served, and

Whereas, Pacific Gas and Electric Company having heretofore filed with this Commission an affidavit that the price paid for oil was reduced by 25 cents per barrel, and the Commission having in consequence in Decision No. 9358 ordered reductions as follows:

	Per 1000 cubic feet
Schedule G-1	5 cents
Schedule G-3	6 cents
Schedule G-4	5 cents
Schedule G-5	6 cents
Schedule G-6	6 cents
Schedule G-7	7 cents
Schedule G-8	8 cents
Schedule G-9	5 cents

And whereas, Pacific Gas and Electric Company now makes affidavit that on July 15, 1922, the price paid for oil was again reduced by 25 cents per barrel, this being a total decrease of 50 cents per barrel from the base prices on which rates were established in Decision No. 9125;

It is hereby ordered, that the rates set forth in Decision No. 9125 in Application No. 6108 be and they are hereby reduced as follows, effective for all regular meter readings taken on and after August 15, 1922:

	Total reduction	Reduction from rates now in effect, per 1000 cubic feet
Schedule G-1	10 cents	5 cents
Schedule G-3	12 cents	6 cents
Schedule G-4	11 cents	6 cents
Schedule G-5	12 cents	6 cents
Schedule G-6	13 cents	7 cents
Schedule G-7	14 cents	7 cents
Schedule G-8	15 cents	7 cents
Schedule G-9	11 cents	6 cents

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It is hereby further ordered, that Pacific Gas and Electric Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-second day of July, 1922.

DECISION No. 10762.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE AND OPERATIONS OF COAST COUNTIES GAS AND ELECTRIC COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1660.

Decided July 22, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9840 in the above entitled matter, this Commission provided with reference to Schedules Nos. 1, 2 and 5 of Coast Counties Gas and Electric Company, that such rates would be subject to increase or decrease upon approval of the Railroad Commission on the basis of three cents (3¢) per 1000 cubic feet for each ten-cent (10¢) increase or decrease respectively in the cost of oil above or below the price of $1.65 per barrel in Santa Cruz and $1.73 per barrel in Watsonville; and

Whereas, Coast Counties Gas and Electric Company now makes affidavit that on July 15, 1922, the price paid for oil was reduced to $1.40 per barrel in Santa Cruz and $1.48 per barrel in Watsonville, this being a decrease of twenty-five cents (25¢) per barrel from the base prices on which rates were established in Decision No. 9840;

It is hereby ordered, that the rates set forth in Decision No. 9840 in Case No. 1660 designated as Schedules Nos. 1, 2 and 5 be and they are hereby reduced by eight cents (8¢) per 1000 cubic feet effective for all regular meter readings taken on and after August 15, 1922.

It is hereby further ordered, that Coast Counties Gas and Electric Company file with the Commission, on or before August 15, 1922, a revision of these schedules to comply with this order.

Dated at San Francisco, California, this twenty-second day of July, 1922.

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DECISION No. 10763.

IN THE MATTER OF THE APPLICATION OF SATICOY WAREHOUSE COMPANY, A CORPORATION, FOR PERMISSION TO SELL AND ISSUE CERTAIN SHARES OF ITS CAPITAL STOCK.

Application No. 8008.

Decided July 22, 1922.

Farrand and Slosson, by *Geo. E. Farrand*, for Applicant.

BY THE COMMISSION.

OPINION.

Saticoy Warehouse Company asks permission to issue and sell at $55 per share 113 shares of its common stock of the par value of $50 each, and use the proceeds to build an addition to its warehouse.

A hearing was had on this application before Examiner Westover at Los Angeles on July 20, 1922.

Applicant has an authorized stock issue of $30,000, divided into 600 shares of $50 each. Under the authority heretofore granted, applicant has issued and sold at $50 per share 487 shares of stock realizing the sum of $24,350 in cash. This money has been invested in warehouse properties.

Applicant conducts a warehouse business at Saticoy. Its warehouse has a capacity of 60,000 sacks of beans. F. J. Mahoney, secretary of Saticoy Warehouse Company, testified that applicant's storage facilities are inadequate to take care of this year's crop. It is estimated that 135,000 sacks of beans will be offered for storage this year.

Applicant has concluded to build an addition 80 by 70 feet to its warehouse. H. Sly and A. A. Lowdermilk have agreed to construct the addition at a cost of $5,608.40 and have it completed by August 15, 1922. Their contract does not cover the cost of painting the new structure, the moving of the scales and other minor charges, the total cost of which is estimated by applicant at $600.

It is the intention of applicant to sell its stock to those who store commodities in its warehouse and to residents of Saticoy and vicinity. Applicant's warehouse is primarily a cooperative enterprise financed by those who use it for storage purposes.

ORDER.

Saticoy Warehouse Company having applied to the Railroad Commission for permission to issue 113 shares ($5,650 par value) of stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided;

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It is hereby ordered, that Saticoy Warehouse Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, for cash, at a net price of not less than $55 per share, 113 shares ($5,650 par value) of common stock and use the proceeds for the purpose of paying the cost of the addition and improvements to its warehouse described in this application; provided,

That applicant will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-second day of July, 1922.

DECISION No. 10764.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED UTILITIES COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE NOTES.

Application No. 8062.

Decided July 22, 1922.

Lon Dunn, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, Consolidated Utilities Company, a corporation, asks permission to issue notes of the face value of $7,200, bearing interest at not exceeding 7 per cent per annum and payable on or before three years after date.

A hearing was had on this application before Examiner Westover at Los Angeles on July 20, 1922.

Applicant operates a telephone system at Gardena, Compton, Moneta, Hynes and Clearwater. It reports 1122 telephones in use on December 31, 1921. Its operating revenues for 1921 are reported at $32,035.70; its operating expenses including taxes at $24,331.47, leaving a net operating revenue of $7,704.23. It is of record that applicant has $37,060 of stock outstanding, on which 8 per cent dividends were paid in 1921. Applicant has no outstanding indebtedness. Its note indebtedness consists of $7,200.

At the time applicant's officers issued the notes now outstanding, they were not aware of the provisions of the Public Utilities Act requiring that the issue of such notes be authorized by the Railroad Commission. Upon having their attention called to the act and to the fact that the

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notes were not issued pursuant to the act, they immediately filed this application to issue notes in lieu of those now outstanding. The $7,200 of notes outstanding include a $2,500 note secured by mortgage and issued to J. A. Myers. The rest of the $4,200 of note indebtedness is represented by three unsecured notes issued to the First National Bank of Compton.

ORDER.

Consolidated Utilities Company having applied to the Railroad Commission for permission to issue notes in the aggregate amount of $7,200, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that Consolidated Utilities Company be and it is hereby authorized to issue notes of the aggregate face value of $7,200, bearing interest at not to exceed 7 per cent per annum and to be payable on or before three years after date hereof, said notes to be issued for the purpose of refunding the indebtedness represented by the $7,200 of applicant's notes now outstanding. Of the notes herein authorized to be issued, the payment of a note for $2,500 may be secured by a mortgage similar in form to the mortgage heretofore executed by applicant for the purpose of securing the $2,500 note issued to J. A. Myers.

The authority herein granted is subject to further conditions as follows:

1. The notes herein authorized to be issued shall be issued so as to net applicant the full face value thereof.

2. If applicant issues a note or notes for a term of less than three years after date hereof, it may renew such note or notes from time to time, provided that the term of the original note or notes and the terms of the renewals thereof do not exceed a period of three years from the date hereof.

3. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by the Public Utilities Act, which fee amounts to $25.

4. Applicant shall keep such record of the issue of the note or notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-second day of July, 1922.

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DECISION No. 10776.

IN THE MATTER OF THE APPLICATION OF THE RIO VISTA TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ISSUE A PROMISSORY NOTE FOR THREE THOUSAND FIVE HUNDRED DOLLARS.

Application No. 7972.

Decided July 25, 1922.

John M. Sullivan, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In this application, as amended at the hearing, Rio Vista Telephone and Telegraph Company asks permission to issue to J. C. Hamilton its unsecured 7 per cent promissory note, payable on or before four years after date, in the principal amount of $3,500, in lieu of a note of like amount issued on January 6, 1920, without an order from the Railroad Commission.

The record shows that on January 6, 1920, the company issued its one-year 7 per cent promissory note for $3,500 to J. C. Hamilton to refund two 7 per cent notes then outstanding. It appears that one note so refunded, in the principal amount of $1,000, was issued on April 6, 1918, to provide funds for the construction of extensions to applicant's properties consisting of about six miles of line, and that the other, for $2,500, was issued on January 6, 1917, to refund indebtedness then outstanding which had been incurred in 1914 for the purpose of reconstructing applicant's line from Denverton to Suisun, and of making other necessary repairs and replacements.

The note for $3,500, dated January 6, 1920, was issued without an order from the Railroad Commission. It appears, however, that the note was issued through inadvertence and with no intent to evade the provisions of the Public Utilities Act. In my opinion, the note heretofore issued is void, and a new note should be issued to refund the indebtedness represented by it.

I herewith submit the following form of order:

ORDER.

Rio Vista Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue its promissory note in the principal amount of $3,500, a public hearing having been held and the Commission being of the opinion that applicant's request should be granted as herein provided;

It is hereby ordered, that Rio Vista Telephone and Telegraph Company be and it is hereby authorized to issue to J. C. Hamilton, on or

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before December 31, 1922, at not less than face value, its unsecured promissory note in the principal amount of $3,500.

The authority herein granted is subject to the following conditions:

1. The note herein authorized shall be issued to refund the indebtedness represented by the $3,500 note, dated January 6, 1920, now outstanding, which note shall be returned to applicant and canceled.

2. The note herein authorized shall bear interest at not exceeding 7 per cent per annum and shall mature on or before four years after date.

3. Applicant shall keep such report of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

DECISION No. 10777.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING RATES TO BE CHARGED BY IT FOR GAS AND ELECTRICITY.

Application No. 6078.

Decided July 25, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9412 in the above entitled matter, this Commission provided, with reference to the rates therein established, that upon approval of the Railroad Commission Schedule No. 1 would be subject to increase or decrease on the basis of 2.4 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of oil above or below the price of $1.75 per barrel at San Diego; and that Schedule No. 3 would be subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel at San Diego; and

Whereas, San Diego Consolidated Gas and Electric Company now makes affidavit that on July 15, 1922, the price paid for oil at San Diego

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was reduced to $1.40 per barrel, this being a decrease of 35 cents per barrel from the base price of oil for Schedule No. 1, and 25 cents per barrel from the base price for Schedule No. 3, as set forth in Decision No. 9412;

It is hereby ordered, that the rates set forth in Decision No. 9412, in Application No. 6078, designated as Schedules Nos. 1 and 3, be and they are hereby reduced by 8 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922; this being a reduction of 8 cents per 1000 cubic feet from rates now in effect under Schedule No. 3; and a further reduction of 6 cents per 1000 cubic feet from rates now in effect under Schedule No. 1.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

DECISION No. 10778.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF THE COAST VALLEYS GAS AND ELECTRIC COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1611.

Decided July 25, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9397 in the above entitled matter, this Commission provided, with reference to the rates therein established, that such rates would be subject to increase or decrease upon approval of the Commission on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price of $1.50 per barrel at Monterey, and $1.87 per barrel at Salinas; and

Whereas, Coast Valleys Gas and Electric Company now make statement that on July 15, 1922, the price paid for oil was reduced to $1.25 per barrel, f. o. b. Monterey, this being a decrease of 25 cents per barrel from the base prices at both Monterey and Salinas, on which rates were established in Decision No. 9397;

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It is hereby ordered, that the rates set forth in Decision No. 9397, in Case No. 1611, designated as Schedules A and B, be and they are hereby reduced by 7 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922.

It is hereby further ordered, that Coast Valleys Gas and Electric Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

DECISION No. 10779.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF THE CENTRAL COUNTIES GAS COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1661.

Decided July 25, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9844 in the above entitled matter, this Commission provided, with reference to the rates therein established, that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of oil above or below the price of $1.76 per barrel, f. o. b. Visalia; and

Whereas, Central Counties Gas Company now makes statement that on July 18, 1922, the price paid for oil at Visalia was reduced by 41 cents per barrel;

It is hereby ordered, that the rates set forth in Decision No. 9844, in Case No. 1661, designated as Schedules A and B, be and they are hereby reduced by 12 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922.

It is hereby further ordered, that Central Counties Gas Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

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DECISION No. 10785.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF MODESTO GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1662.
Decided July 25, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9839 in the above entitled matter this Commission provided, with reference to the rates therein established, that such rates would be subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the cost of oil above or below the price of $2 per barrel, upon approval of the Railroad Commission; and

Whereas, Modesto Gas Company having heretofore filed with this Commission an affidavit that the price paid for oil has been reduced by fifteen cents per barrel, and the Commission having in consequence in Decision No. 9908 ordered a reduction of four cents per 1000 cubic feet; and

Whereas, Modesto Gas Company now makes affidavit that on July 15, 1922, the price paid for oil was reduced to $1.57 per barrel, this being a further decrease of 28 cents and a total decrease of 43 cents per barrel from the price on which rates were established in Decision No. 9839.

It is hereby ordered, that the rates set forth in Decision No. 9839, Case No. 1662, designated as Schedules A and B, be and they are hereby reduced by 11 cents per 1000 cubic feet effective for all regular meter readings taken on and after August 15, 1922, this being a further reduction of 7 cents per 1000 cubic feet.

It is hereby further ordered, that Modesto Gas Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

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DECISION No. 10786.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF RATES OF THE WESTERN STATES GAS AND ELECTRIC COMPANY FOR SERVICE OF GAS IN THE CITY OF STOCKTON.

Case No. 1664.
Decided July 25, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9630 in the above entitled matter this Commission provided, with reference to the rates established in Decision No. 8459, that such rates after being reduced by 8 cents per 1000 cubic feet as provided therein would be subject to increase or decrease upon approval of the Railroad Commission on the basis of 1.5 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.70 per barrel at Stockton; and

Whereas, Western States Gas and Electric Company now makes affidavit that on July 15, 1922, the price paid for oil was reduced to $1.45 per barrel, this being a decrease of 25 cents per barrel from the base price on which rates were established in Decision No. 9830.

It is hereby ordered, that the gas rates established in Decision No. 9830, Case No. 1664, be and they are hereby reduced by 4 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922.

It is hereby further ordered, that Western States Gas and Electric Company file with the Commission, on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of July, 1922.

DECISION No. 10787.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL OIL COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ASSIGN AND TRANSFER CERTAIN PROPERTY; AND THE APPLICATION OF LOST HILLS WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 8045.
Decided July 27, 1922.

Morrison, Dunne and Brobeck, by *H. H. Phleger,* for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Universal Oil Company asks permission to transfer and assign its water distributing system, described in Exhibit "C" attached to the

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petition, to Lost Hills Water Company. Lost Hills Water Company asks permission to acquire such properties, and to issue, in consideration of such transfer and assignment, $100,000 par value of its capital stock. In addition, it asks permission to issue and sell, at par, for cash, one share of stock of the par value of $100 to each of its five incorporators.

The properties proposed to be transferred are located in Lost Hills, Kern County, about 25 miles west of Wasco. It appears that they were constructed about 1909 by Universal Oil Company for the purpose of obtaining water for use in its business of producing and selling oil and petroleum products, and that as the territory was developed, water was sold to other oil companies operating in the vicinity and to a few small purchasers, the total number of consumers at present not exceeding 15 or 20.

Recently it has been decided to separate the public utility business from the nonpublic utility business. For that reason, those in control of Universal Oil Company have caused Lost Hills Water Company to be organized for the express purpose of receiving and operating the water business and properties. It is of record that no change in the management is contemplated as a result of this transfer of properties, the only reason being the segregation of the two classes of business.

The articles of incorporation of Lost Hills Water Company show that it was organized on or about July 10, 1922, with an authorized capital stock of $200,000, divided into 2000 shares of the par value of $100 each. The company now proposes to sell $500 of stock to directors for qualifying purposes and to deliver $100,000 to Universal Oil Company for properties.

The properties to be acquired by the water company consist, in general, of 20 acres of land, the source of water supply, 12½ miles of transmission lines, consisting of 6 miles of 6-inch wooden pipe and 6½ miles of 4-inch and 6½-inch steel pipe, and approximately 97,000 feet of distribution lines, together with pumps, engines, tanks, meters and other equipment. In addition, the company will receive two franchises granted by Kern County, one for a period of 50 years from February 11, 1911, and the other for 40 years from March 13, 1912.

From the testimony herein, it appears that the properties are in good and serviceable condition and that with the exception of the replacement of the wooden pipe with steel pipe, the water company will not be called upon, in the immediate future, to make any extensive expenditures. It is reported that the original cost of the properties to be transferred was about $100,000, the amount of stock to be issued.

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I submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for and by such issue of stock is reasonably required for the purpose herein specified;

It is hereby ordered, that Universal Oil Company be and it is hereby authorized to transfer and assign the properties described in Exhibit "C" attached to the petition herein, to Lost Hills Water Company, and Lost Hills Water Company be and it is hereby authorized to receive and acquire such properties.

It is hereby further ordered, that Lost Hills Water Company be and it is hereby authorized to issue $100,500 (1005 shares) of its capital stock.

The authority herein granted is subject to the following conditions:

1. Five shares ($500) of the stock herein authorized may be sold by Lost Hills Water Company at par, for cash, to its directors and the proceeds used for working capital.

2. One thousand shares ($100,000) of the stock herein authorized may be delivered by Lost Hills Water Company to Universal Oil Company in full payment for the properties it is herein authorized to acquire.

3. Lost Hills Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Within thirty days after the transfer of the properties herein authorized, Lost Hills Water Company shall file a certified copy of the deed by which it acquired title to such properties.

5. The consideration involved for the transfer herein authorized shall not hereafter be urged in any proceeding for rate fixing, or for any other purpose, before this Commission.

6. Universal Oil Company, within thirty days after it relinquishes control and possession of the properties herein authorized to be transferred, shall file a certified statement indicating the exact date upon which such control and possession was relinquished.

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7. The authority herein granted shall apply only to such transfer of properties and issue of stock as may be made on or before October 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1922.

DECISION No. 10791.

BOARD OF SUPERVISORS OF IMPERIAL COUNTY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1593.

Decided July 28, 1922.

RATES—RAILROAD—EXCESSIVE.—The Commission found that rates in effect between Los Angeles and Imperial County points were excessive, unjust, unreasonable and discriminatory and ordered specific reductions.

CLASS RATES—COMBINATION OVER LOCAL—COMMUNITY DEVELOPMENT.—Class rates from San Pedro-Wilmington were found in most instances constructed on a combination of the rates over Los Angeles. This method of making class rates from important points, especially where the rail shipping points are at a port, was declared unjust and unreasonable and as retarding the development of the particular community affected.

F. P. Gregson and *R. S. Sawyer*, for Complainants.
M. A. Cummings, *V. S. Andrus* and *Elmer Westlake*, for Defendant.
Henry Riddiford, for Lumbermen's Exchange.
O. T. Helpling and *P. H. Campbell*, for Riverside Portland Cement Company, and San Pedro-Wilmington Joint Traffic Committee, Interveners.
F. F. Miller, for Los Angeles Grain Exchange and Los Angeles Hay Exchange.
E. E. Bennett, for Los Angeles and Salt Lake Railroad Company.

BY THE COMMISSION.

OPINION.

The county of Imperial, by its board of supervisors, filed this complaint averring that defendant Southern Pacific Company's class rates published in Local and Proportional Freight Tariff No. 711–B, C. R. C. No. 2527, and specific commodity rates carried in defendant's Local and Proportional Freight Tariff No. 730–A, C. R. C. No. 2436, between Imperial County points and the city of Los Angeles and the contiguous points are unjust and unreasonable, in violation of section 13 of the Public Utilities Act.

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The items of the latter tariff complained of as containing unjust and unreasonable rates and the specific commodities covered thereby, are set forth by number and commodity as follows:

Item No.	Commodity
500	Beverages
590	Broom corn
880	Tin cans
1320-D	Cotton and cotton linters
1350-B	Cottonseed
1380	Butter
3660	Molasses refuse
3850-A	Vegetable oils
6010	Lime rock
6380	Pumice stone

Complainant makes like allegation with reference to other, but not enumerated, items of the commodity tariff above referred to, and continues the complaint by alleging that defendant also publishes and maintains specific commodity rates between Imperial County points and Los Angeles and contiguous points in freight tariffs enumerated below, together with commodities set opposite the respective tariff publications:

Tariff No.	C. R. C. No.	Commodity
332-C	2505	Lime and plaster
333-F	2395	Petroleum and products
584-C	2530	Cement
602-C	2498	Hay and straw
634-A	3328	Lumber
645-C	2556	Live stock
647-C	2542	Live stock (range)
659-C	2500	Flour and cereal products
726-B	2533	Fertilizer
793-B	2487	Grain and products
796-B	2507	Fresh vegetables
817-B	2503	Fresh fruit
825-B	2501	Clay and clay products

Further allegation by complainant is that defendant by its relative adjustment of class and commodity rates published and maintained in the tariffs herein set forth gives undue preference to other localities within the State of California with respect to the movement of necessities and supplies inbound and the movement of products outbound to points within the State of California, subjecting the merchants and producers of Imperial County to undue and unlawful prejudice and disadvantage in violating section 19 of the Public Utilities Act.

Complainant prays that after due hearing and investigation the Commission declare said rates and each of them herein complained of to be excessive in amount, for an order commanding defendant to cease and desist from collecting the alleged unjust, unreasonable and excessive charges complained of and from the maintenance of the alleged unjust and unreasonable tariffs; that this Commission determine and prescribe what will be just and reasonable rates and charges to be hereafter

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observed; that defendant be ordered to cease and desist from undue and unjust discrimination against the county of Imperial, and such other and further orders as to the Commission may seem meet.

Defendant, Southern Pacific Company, denies that any of the class or commodity rates set forth by complainant are, or that each or any of them is, unjust and unreasonable or in violation of section 13 of the Public Utilities Act, and denies further that by its relative adjustment of the class or commodity rates published or maintained in its tariffs, or any of them, specifically set forth in paragraph 11 of the complaint, it unduly or at all prefer or prefers any other localities or locality within the State of California with respect to the movement of necessities or supplies inbound or the movement of products outbound to points within the State of California, or otherwise, or subjects any merchant or merchants or producer or producers of Imperial County to undue, unlawful, or any prejudice or disadvantage, in violation of section 19 of the Public Utilities Act, or otherwise, or at all.

Petition and stipulation for intervention was filed by the Riverside Portland Cement Company and the Los Angeles and Salt Lake Railroad Company, stipulating and agreeing to an acceptance of the above complaint and allegations thereof as the complaint of the Riverside Portland Cement Company in so far as said complaint applies to the rates, rules and regulations governing shipments of lime rock and cement. This petition recites further that the Riverside Portland Cement Company ships cement from its plant at Crestmore, on the line of the Los Angeles and Salt Lake Railroad Company, to points on the Southern Pacific Company in Imperial County; that the former carrier is a party to the latter's Tariff No. 584–C, C. R. C. 2530 by concurrences FX 5 No. 7 and F2 No. 4; that this tariff also names rates, rules and regulations covering shipments of cement from Crestmore to Imperial County destinations as set forth in the original complaint. Violation of sections 13 and 19 of the Public Utilities Act is made the basis of this petition. Stipulation and agreement between complainant by intervention, the said Riverside Portland Cement Company, and defendant by intervention, the said Los Angeles and Salt Lake Railroad Company, recites further that the scope of said case No. 1593 will not be enlarged by said petitioners except and in so far as the hearing relates to the movement of, or the rates, rules and regulations applying on cement and lime rock from Crestmore to points on the Southern Pacific Company in Imperial County.

San Pedro Chamber of Commerce and Wilmington Chamber of Commerce filed petition for intervention, alleging among other things that the allegations or averments in the above named case apply with equal force and effect to Wilmington and San Pedro.

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These interveners assert that no rates from Los Angeles to the Imperial Valley, or vice versa, can be properly considered by the Commission without due consideration to San Pedro and Wilmington, both of which stations are not only contiguous to Los Angeles but are an integral political part of Los Angeles.

At the hearing, the Lumbermen's Exchange, the Los Angeles Grain Exchange and the Los Angeles Hay Exchange intervened.

Before proceeding with an analysis of the voluminous exhibits submitted it will be illuminating to discuss briefly the history of the various rate changes that have affected the Imperial Valley in the last ten years.

In the latter part of 1911 shippers and receivers of freight into and out of the Imperial Valley brought action against the Southern Pacific Company attacking rates between Los Angeles and Imperial Valley points (Case No. 127, Dec. 74, of May 14, 1912, 1, C. R. C. 114).

After careful consideration of the evidence, the Commission came to the conclusion that the complaint was justified and found as a fact that all the class rates and certain commodity rates were excessive, unjust and unreasonable and, accordingly, prescribed that lower rates be put into effect. In consonance with this finding the Commission set forth certain schedules of class and commodity rates which it found to be just and reasonable rates to be charged and collected by defendant for the transportation of freight between the points specified. These rates so specified as just and reasonable were established by the Commission as the maximum to be charged between any two points which were intermediate to points between which rates were established by the order in the case. The schedules of rates prescribed were made effective on June 12, 1912, and on the basis of these rates has been constructed the entire fabric of rates now in effect in the territory involved. Changes in rates were made from time to time to meet various conditions obtaining in the Imperial Valley.

On December 29, 1917, all the important railroads in the United States passed into the control of the federal government. On May 25, 1918, there was promulgated by the Director General, United States Railroad Administration, General Order No. 28, providing for an increase of 25 per cent in freight rates on all federal controlled lines.

The rates thus increased in the Imperial Valley, as elsewhere, were in effect at the time the Interstate Commerce Commission, on July 29, 1920, in its Docket *Ex Parte* Order No. 74, granted a further increase of 25 per cent in rates on interstate freight traffic. This decision of the Interstate Commerce Commission resulted logically and necessarily in the rendition by the Railroad Commission of the State of California, on August 17, 1920, of Decision No. 7983, in Application No. 5728, wherein

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was authorized a like increase of 25 per cent in rates on intrastate freight traffic. The latter decision followed the application made to this Commission by practically all of the steam railroads, electric interurban railroads and boat lines operating in California requesting authority to increase intrastate freight rates in conformity with the authority granted by the Interstate Commerce Commission to increase interstate freight rates. This Commission's reasons underlying the decision in Application No. 5728 are fully set forth in the opinion preceding the order. It is not necessary, therefore, to elaborate thereon in the case now before us.

The exhibits introduced by complainant cover a wide range of comparative rates, both interstate and intrastate, and commodities selected from tariffs applicable in the States of California, Oregon, Washington, Montana, Nevada, Utah, Wyoming, Arizona, New Mexico and Texas.

Complainant's theory of the case is that a reduction in freight rates from the Imperial Valley will maintain the present tonnage and be an encouragement to the people to remain. The testimony throughout lays stress on the point that the present freight rate adjustment is responsible for an exodus of people from the valley, and while very little definite statistical data was presented with reference to this matter, the fact that there are ample housing facilities was pointed to as bearing out these reports. This condition was supported by statements of credit bureaus of merchants operating in the valley.

The Imperial Valley is experiencing that deflation in prices which is in process throughout all sections of the country. The price of cotton has gone to bed rock; in 1920 corn sold for $45 per ton; in 1921 the price dropped to $26 a ton; butter fat, a leading product, sold for 70 cents a pound in 1920; in 1921 the price dropped to 46 or 47 cents a pound and at one time to as low as 30 or 31 cents. Testimony was given to the effect that because of the high freight rate on spinach the 1920 crop rotted in the fields.

Los Angeles is the principal distributing market for Imperial Valley products, as well as the chief purchasing center for its merchants. No manufacturing is done in the valley. The retail and jobbing prices in that territory are the Los Angeles prices, plus the freight rate to the valley, irrespective of where the commodities are bought; that is, whether originally purchased in New York, Chicago or elsewhere. It is contended by the complainant that a reduction in freight rates would mean a reduction to the dealer and that this, in turn, would be reflected in cheaper prices to the ultimate consumer. Class rates are extremely vital, because large quantities of less carload traffic move into the Imperial Valley under such rates, especially the first four classes.

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Evidence was adduced showing that approximately four million pounds of butter were shipped into the city of Los Angeles during the year ending June 30, 1920, and that large quantities of merchandise, such as waxed paper, parchment paper, pails, cans, machinery, machinery parts, truck parts, electric motors, are shipped annually from Los Angeles under less carload rates; also that the class rates in effect tend to place the Imperial Valley plants at a distinct disadvantage as compared with rates applying to butter plants located in the San Joaquin Valley, from which plants butter is also shipped to Los Angeles. This same condition exists, witness testified, in favor of Pixley, Tulare, Hanford, Laton and certain other places where rates are lower to Los Angeles than from the Imperial Valley, and that the freight rates have an important bearing on the ability of the creameries to pay a price to dairymen to make it worth their while to produce butter fat.

Evidence brought out the fact that alfalfa growers have little or no profit after the payment of baling and freight; that the merchants now find it necessary to carry farmers for periods of sixty and ninety days, six months and a year, and that many of these merchants are in the hands of the Board of Trade.

One of the complainant's witnesses, a rancher and feeder of cattle, interested in some 3000 acres, testified that the incoming and outgoing freight charges on cattle amount to about 30 per cent of the actual selling price of the animal in Los Angeles at the present time; that all cattle for the Imperial Valley are purchased in Arizona and New Mexico, shipped in for feeding and then reshipped to Los Angeles, the charge for the latter item varying from 74 cents to $1.32 per cwt.; also that the freight rates are one of the factors which brought about the present conditions in the valley.

Another witness for the complainant, a civil engineer of long residence in the Imperial Valley, testified to the effect that the construction and maintenance of the line from Los Angeles to the valley was a simple matter in comparison with the difficulties encountered in the construction and operation of the Shasta and Truckee routes; that the curvatures, grades, tunnels, bridges, ballasting and operation of the latter are far more complex. The line from Los Angeles to Imperial County points is largely valley grade with no major engineering involved and is fairly comparable with the line between Port Costa and Redding. Again, the right of way over the desert is free from snow and is less subject to danger from fire than is the northern route.

With respect to the market conditions for hay: It was shown by the evidence that the San Joaquin Valley farmer receives more for this commodity in Los Angeles than does the Imperial Valley farmer. Freight rates from the San Joaquin Valley are lower, comparatively,

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than from the Imperial Valley, and the freight rate is the factor that determines the price paid to the farmer for his hay. The evidence also showed that prior to the decrease in the freight rate from Lancaster farmers in the Imperial Valley were able to ship to Los Angeles with a differential of $1.60 a ton against them, but that with the differential increased to $2.50 a ton through a reduction in the Lancaster-Los Angeles rates all movement of Imperial Valley hay into Los Angeles is prevented. Prior to General Order No. 28 the rate from Lancaster to Los Angeles was 12½ cents per cwt.; General Order No. 28 increased it to 15½ cents; Ex Parte Order No. 74 still further increased it to 19½ cents; later that rate was reduced to 15 cents, and the railroad, instead of the trucks, is again getting the hay tonnage.

In the Perris or Temecula Valley and the Imperial Valley the rate to Los Angeles still is 19½ cents per cwt. It was the contention of witness that if the original differential of $1.60 in favor of Lancaster as against Calexico to Los Angeles were restored, the farmers of the Imperial Valley would be enabled to sell their hay and ship it to Los Angeles. Prior to the decrease, the rate from Lancaster to Los Angeles was 19½ cents and the rate from the Imperial Valley was 27½ cents per cwt., a differential of 8 cents; after the reduction in the Lancaster rate to 15 cents the differential was raised to 12½ cents per cwt.

Other exhibits of complainant dealt with comparisons of certain selected commodity rates, carload minimum weights, the price of crude oil, density of population, relation of railroad mileage to population, the agricultural growth of the Imperial Valley, and operating statistics showing the financial results obtained by the Southern Pacific Company during the period 1911 to 1920, inclusive. It will not be necessary to enter into any detailed analysis of these exhibits.

As to population, however, it may be stated that the census of 1920 showed the total in the State of California to be 3,426,536. Of this number more than 30 per cent, or 1,103,606, reside in the four counties crossed by the Southern Pacific Company in the southern part of the state between Los Angeles and Calexico, viz: Los Angeles, 936,455; San Bernardino, 73,401; Riverside, 50,297; Imperial, 43,453. These four counties embrace 35,602 square miles, with an average population per square mile of 30.9, Los Angeles having a population per square mile of 226.6; San Bernardino, 3.06; Riverside, 7.0; Imperial, 10.6.

It is clearly apparent from this analysis that the proper adjustment of freight rates, especially less than carload rates, is of vital importance in the upbuilding of the territory. The testimony of complainant's witnesses was to the effect that in many localities, freight in heavy volume, carload and less than carload, is moving by auto trucks, instead of via the Southern Pacific.

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Defendant contends, as heretofore stated, that the rates assailed are just and reasonable, and presented numerous exhibits in support of its position, of which exhibits only the more important will be mentioned.

Much testimony was given by the assistant superintendent of transportation for the defendant dealing with the costs of operating trains between Los Angeles and Imperial County points. This testimony shows that the territory between Los Angeles and Indio, distance 129.1 miles, is partly mountainous, having grades varying from .64 to 2.06 per cent; comparison was made between the physical operating difficulties in the territory south of Los Angeles and the mountain territory operated by the Southern Pacific Company on the Shasta and the Sacramento divisions.

Voluminous exhibits were presented intended to show the average station terminal cost for handling less than carload freight. These exhibits showed that according to the methods employed in allocating the expenses, based upon tests made at various stations during the year 1920, a claimed cost resulted of 23¾ cents per 100 pounds at the two terminals — the shipping station and the delivering station. Another exhibit showed the average labor costs at sixteen stations in northern California as compared with five stations in the Imperial Valley, the result being that the average station labor cost per ton at the sixteen stations in northern California was $1.24 as compared with $2.15 at each of the five Imperial County stations. Complainant severely criticized the exhibits on the ground that the results were arrived at arbitrarily; that the number of stations used in Southern California and the time devoted to the test period at the different stations were not sufficient to arrive at an accurate or reliable estimate.

An exhibit was introduced showing the number of single and double deck stock cars owned by important railroads throughout the United States. The report showed a total of 70,234 single deck cars and a total of 9,922 double deck cars, the double deck cars being approximately 14 per cent of the single deck. The Southern Pacific Company owns 4,842 single deck and 194 double deck cars, the latter being 4 per cent of the total. The intent of the exhibit was to show that it is unprofitable to attempt to furnish double deck cars and that the defendant is required to furnish two single deck cars when one double deck car is ordered. Testimony in connection with this exhibit showed it takes longer to load a double deck car than a single deck car and that the double deck cars are seldom used for transportation of commodities other than sheep, goats and hogs and that the empty car mileage of the double deck cars exceeds the loaded car mileage by

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7 per cent; in other words, there is an empty car movement of 107 miles for every 100 miles of loaded car movement.

Other exhibits were introduced making comparison with rates on the principal commodities called into question, viz, cement, lime, cereal products, fresh fruit and vegetables, lumber, hay, cotton, cottonseed, live stock, petroleum and products, brick, fertilizer, butter and cream.

Exhibits and much testimony were introduced with reference to the class rates between Los Angeles and Imperial Valley points, and the Commission has given these exhibits and testimony consideration in arriving at the rates found to be just and reasonable.

CEMENT.

Cement is shipped in carloads from Riverside Junction and Colton to points in Imperial Valley east and south of Niland, Cal. The rates from Los Angeles prescribed by the Commission in 1912 have been advanced by two horizontal increases, once in June, 1918, by 2 cents per 100 pounds, and again in August, 1920, by 25 per cent. The rate from Colton to Calexico is 34 cents per hundredweight on cement, in carloads, for a distance of 169 miles. The same rate applies at Colorado, the last point in California, a distance of 193 miles. These rates appear to be inconsistent when compared with rates from other cement-producing points where traffic conditions are similar. Reasonable rates are prescribed for the future, as per Schedule No. 1 of the order.

FLOUR, CEREALS AND CEREAL PRODUCTS.

In view of the existing rates for equi-distances in effect between Los Angeles and points north thereof and between producing and consuming points throughout the state, it is apparent that the present rates on these commodities between Los Angeles and Imperial County points are unjust, unreasonable and discriminatory. The rates set forth in Schedule No. 2, appearing in the order, are found to be just and reasonable.

FRESH FRUITS AND VEGETABLES.

Careful consideration has been given to the rates applying to fresh fruit and vegetables between Los Angeles and Imperial County points.

In the Western Classification, fresh fruit, N.O.I.B.N., moving in carload lots, is rated third class, while vegetables are rated fifth class. In the State of California, however, these commodities move under Class C rating, as per item published in the Exception Sheet, issued by Pacific Freight Tariff Bureau.

This Class C rating in California was established years ago to take care of the movement of fresh fruits and vegetables and is on a basis very much lower than the rates applying in the fruit and vegetable

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districts of other states. For this reason most of the fresh fruit and vegetables moving within California are not covered by special commodity rates. The adjustment of class rates in connection with this proceeding will bring material reductions and, taking into consideration the conditions existing in the territory between Los Angeles and Imperial County points, will place rates on a parity with the same commodities moving between other points within this state.

For these reasons no commodity rates on fresh fruits and vegetables will be established by this proceeding.

LUMBER.

This proceeding involves only the rates applying from Los Angeles and the contiguous territory to points in Imperial County, but much testimony and many exhibits were devoted to the adjustments at stations between Los Angeles and points north of the Imperial County line, which rates are not directly involved in this proceeding. The rates from Los Angeles and San Pedro to points on the line between Niland and Calexico are blanketed at all destination points, while at points south of Niland to Colorado Station, the Los Angeles rates are 1 cent per 100 pounds less than the rates applying from San Pedro. We see no justification for this adjustment and are of the opinion that the rates from Los Angeles and San Pedro-Wilmington should be on a parity where the distance haul is approximately the same.

Because of the highly competitive character of the lumber traffic it would appear to the Commission that the rates published are fairly well adjusted, and taking into consideration the 10 per cent reduction made on July 1, 1922, the Commission is of the opinion that the rates on lumber and its products now in effect are excessive and unreasonable to the extent they exceed the rates set forth in Schedule No. 3 of the order made in this proceeding.

LIVE STOCK.

Complainant introduced exhibits comparing the live stock rates in effect between points within the state of Arizona and points within New Mexico, and after adding the schedule of rates together divided the total by the number of rates involved and maintains that the results thus obtained should be the rates applicable to live stock moving within the State of California.

The Commission has made a careful check of live stock rates throughout the State of California, the result of which develops the fact that, taken as a whole, the rates from Imperial County points are found not to be unjust or unreasonable.

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From the testimony submitted, the Commission, however, is of the opinion that the line extending fom Niland to Calexico may not be classed as a branch line service and that the operations are main line both as to passenger and freight. Live stock rates between Los Angeles and points in the Imperial Valley are now on a higher scale than are the rates on the line extending south of Niland to Araz, for example:

Los Angeles to	Distance	Rates in dollars and cents per car				
		Sheep		Hogs		Cattle
		Single deck	Double deck	Single deck	Double deck	
Estelle	190.2	$61 00	$99 00	$70 00	$110 50	$84 50
Flowing Well	189.9	55 50	92 00	67 50	108 50	81 00

Upon a careful review of the entire live stock situation, the Commission finds that the existing rates between points in the territory complained of are not unjust, unreasonable or discriminatory, except as to the rates referred to above, where such rates are in excess of the rates for equi-distant points located on the line south of Niland to Araz. The rates shown in Schedule No. 4 of the order are found to be just and reasonable and nondiscriminatory.

CLASS RATES.

The class rates to points in the Imperial Valley were, as heretofore stated, established by this Commission in Case No. 127, May 14, 1912—*Geo. A. Long et al.* vs. *Southern Pacific Company* (1, C. R. C. 114)—and the rates today are those established in 1912 with the war-time increases added. The subsequent changes in the class rates between Los Angeles and Calexico are illustrative of the entire rate situation in the Imperial County district:

Miles	Between Los Angeles and Calexico	Class rates in cents per 100 pounds									
		1	2	3	4	5	A	B	C	D	E
226.7	June 21, 1912	124	108	99	88	72	72	39½	37	33½	33½
	June 22, 1912	95	81	67	59	50	50	38	29	24	19
	June 25, 1918	119	101½	84	74	62½	62½	47½	36½	30	24
	Aug. 26, 1920	149	127	105	92½	78	78	59½	45½	37½	30

It will be noted from the above tabulation that the first class rate has increased from 95 cents, as of June 22, 1912, to $1.49, or approximately 56 per cent (the $1.49 being the rate in effect prior to July 1, 1922).

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The following tabulation shows class rates in effect between other points in California for distances approximating 226 miles, this being the distance between Los Angeles and Calexico:

Miles	Between	And	Class rates in cents per 100 pounds									
			1	2	3	4	5	A	B	C	D	E
226	Los Angeles	Octol (S. Joaq. V. pt.)	109½	94	77	69	62½	62½	44	33	28	22
226.6	Los Angeles	Chorro (Coast Div. pt.)	106½	87	75½	66½	49	53	53	49½	44½	44½
227.6	Stockton	Nome (S. Joaq. V. pt.)	103	87½	72	64½	59½	59½	40½	31½	27	20½
228.3	Sacramento	Quail (S. Joaq. V. pt.)	106½	90½	75	69	62½	62½	44	34½	30	24
226.5	Sacramento	Castella (Sac. V. pt.)	119	102	83	75	69	69	47	36½	50	24

It will be noted from this tabulation that the first class rate, Los Angeles to Octol, a point in the San Joaquin Valley, is $1.09½; from Los Angeles to Chorro, a point on the Coast Division, $1.06½; Stockton to Nome, a point in the San Joaquin Valley, $1.03; Sacramento to Quail, a point in the San Joaquin Valley, $1.06½; Sacramento to Castella, a point on the Shasta Division, $1.19. All of the rates quoted in the above exhibit are those in effect prior to July 1, 1922, and are based upon rates originally established by this Commission in Cases No. 116 (1, C. R. C. 95) and No. 686 (11, C. R. C. 867). These comparisons clearly illustrate that the rates between Los Angeles and Imperial County points on the south are excessive and unreasonable as compared with the class rates from Los Angeles to points north thereof, from Stockton and Sacramento south to points in the San Joaquin Valley, and from Sacramento north to points in the Sacramento Valley.

The complainant and the defendants introduced numerous exhibits comparing the class rates in effect between Los Angeles and Imperial County points with class rates between other points within the State of California; also with the rates in the states of Oregon, Washington and Arizona, and with the rates established by the Interstate Commerce Commission in the Shreveport, Memphis, Southwestern proceedings.

The Commission has given consideration to all of these rates and finds that the rates now in effect between Los Angeles and Imperial County points are excessive, unjust, unreasonable and discriminatory, and that the rates set forth in Schedule No. 5 of the order are just and reasonable.

The class rates from San Pedro-Wilmington are, in most instances, constructed on a combination of the rates over Los Angeles. We believe that this method of making class rates from important points, such as

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San Pedro-Wilmington, especially where the rail shipping points are at the port, is unjust and unreasonable and retards the development of the particular community affected.

The Commission is of the opinion that the rates from San Pedro and Wilmington are excessive and unreasonable, also discriminatory, and that the rates set forth in Schedule No. 6 are found to be just and reasonable.

Since the record in this case was made, many changes in economic and transportation conditions have occurred and conditions are still far from normal.

The testimony and exhibits gave but little consideration to the reasonableness, *per se,* of the rates involved, or upon the effect reductions would have on the revenue of the carrier. The exhibits were mainly devoted to a comparison of rates between Los Angeles and Imperial County points with those existing for similar distance hauls within the State of California and in other states, but no effort was made to explain or justify the various rate schedules. The differences in rates within California, where the mileage is approximately the same, as shown by the records of the Commission, are attributable for the most part to two causes—water competition and market competition. It is a fact, however, that communities can not prosper on rates which impair the carrier's ability to properly serve, nor can communities thrive upon rates which prevent movement of commodities into the consuming markets unless the rates are on a fair parity with the rates in effect to the same market from other producing points. The consumer is not particularly interested as to where the commodity is produced, but is governed by its cost, which to a greater or less extent is dependent upon the freight rate. It therefore follows that the adjustments must be reasonable and fair and made to meet all of the transportation, economic and commercial necessities.

We have not established new specific commodity rates on many of the articles listed in the complaint, because the substantial reductions made in the class rates by this order will meet the present situation.

In reaching a conclusion we have given consideration to the freight rate reductions effective July 1, 1922, approximating 10 per cent, which reductions are reflected in the rates herein found to be just and reasonable.

ORDER.

The county of Imperial, by its board of supervisors, having filed this complaint against defendants herein, and the Riverside Portland Cement Company, Los Angeles and Salt Lake Railroad Company, San Pedro Chamber of Commerce, Wilmington Chamber of Commerce,

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Lumbermen's Exchange, Los Angeles Grain Exchange and the Los Angeles Hay Exchange, having asked and been granted leave to intervene, the defendants having answered said complaint, a hearing having been held, and the Commission being fully advised in the premises hereby finds as a fact that all freight rates in excess of the rates shown in Schedules 1 to 6, inclusive, attached to and made a part of this order, are excessive, unjust and unreasonable.

Basing its order on the findings of facts in the foregoing opinion;

It is hereby ordered, that the schedules of class and commodity rates attached hereto and marked, respectively, Schedules 1, 2, 3, 4, 5 and 6 are hereby approved and established as just and reasonable rates to be charged by the Southern Pacific Company on traffic moving between the points set out in said schedules.

It is hereby further ordered, that the Southern Pacific Company publish and file with this Commission, on or before thirty (30) days from the date of this order, in conformity with the preceding opinion, the rates as set forth in Schedules Nos. 1 to 6, inclusive.

Dated at San Francisco, California, this twenty-eighth day of July, 1922.

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SCHEDULE NO. 1.

Cement as Described in Southern Pacific Tariff 584-C, C. R. C. 2530—Carloads.

From Colton and Riverside Junction to	Rates in cents per 100 pounds
Bertram	22
Pope	23
Frink	23½
Wister	24
Mundo	24
Niland	24½
Estelle	25
Calipatria	25½
Poppy	28
Fondo	28
Casaba	28
Westmoreland	28
Bernice	25
Rockwood	25½
Woods	25½
Hovely	26
Brawley	26
Katsura	26
Melon	26½
Grape	26½
Imperial	27
El Centro	27
Heber	27½
Calexico	28
Flowing Well	25
Iris	25
Tortuga	25½
Amos	26
Acolita	26½
Mesquite	27
Glamis	27
Ruthven	27½
Drylyn	28
Cactus	28½
Ogilby	28½
Knob	29
Araz Junction	30
Cantu	30
Araz	30½
Colorado	30½

SCHEDULE NO. 2.

Flour, Cereals, Cereal Products, as Described in S. P. Tariff 659-C, C. R. C. 2500—Carloads.

Between Los Angeles and	Rates in cents per 100 pounds
Bertram	32½
Pope	32½
Frink	33
Wister	34
Mundo	34½
Niland	35
Estelle	35
Calipatria	35
Poppy	40
Fondo	40
Casaba	40
Westmoreland	40
Bernice	35
Rockwood	35
Woods	35
Hovely	35
Brawley	35
Katsura	35
Melon	35
Grape	35
Imperial	35
El Centro	35
Heber	35
Calexico	35
Flowing Well	35
Iris	35
Tortuga	35
Amos	35
Acolita	35
Mesquite	35
Glamis	35
Ruthven	35
Drylyn	35
Cactus	36½
Ogilby	36½
Knob	36½
Araz Junction	36½
Cantu	36½
Araz	36½
Colorado	36½

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SCHEDULE NO. 3.

Forest Products as Described in Groups A and B, Southern Pacific Tariff 634-B, C. R. C. 2558—Carloads.

Between Los Angeles, Wilmington, San Pedro and	Rates in cents per 100 pounds	
	Group A	Group B
Bertram	30	30
Pope	30½	30½
Frink	30½	30½
Wister	30½	30½
Mundo	31½	31½
Niland	32	32
Estelle	32	32
Calipatria	32½	32½
Poppy	37½	37½
Fondo	37½	37½
Casaba	37½	37½
Westmoreland	37½	37½
Bernice	32½	32½
Rockwood	33	33
Woods	34	34
Hovely	34	34
Brawley	34½	34½
Katsura	35	35
Melon	35	35
Grape	35	35
Imperial	35½	35½
El Centro	36½	36½
Heber	37	37
Calexico	37½	37½
Flowing Well	32	32
Iris	32½	32½
Tortuga	32½	32½
Amos	34	34
Acolita	35	35
Mesquite	35½	35½
Glamis	36½	36½
Ruthven	37	37
Drylyn	37½	37½
Cactus	38	38
Ogilby	38	38
Knob	39	39
Araz Junction	39	39
Cantu	39	39
Araz	39	39
Colorado	39½	39½

SCHEDULE NO. 4.

Livestock as Described in Southern Pacific Tariff 645-C, C. R. C. 2556.

Between Los Angeles and	Rates in dollars and cents per standard car					
	Horses, mules, burros, donkeys, jacks	Cattle	Sheep		Hogs	
			Single deck	Double deck	Single deck	Double deck
Estelle	$91 50	$81 00	$55 50	$92 00	$67 50	$108 50
Calipatria	91 50	81 00	55 50	92 00	67 50	108 50
Poppy	102 50	84 50	56 50	94 50	71 00	113 00
Fondo	102 50	84 50	56 50	94 50	71 00	113 00
Casaba	102 50	84 50	56 50	94 50	71 00	113 00
Westmoreland	102 50	84 50	56 50	94 50	71 00	113 00
Bernice	91 50	81 00	55 50	92 00	67 50	108 50
Rockwood	91 50	81 00	55 50	92 00	67 50	108 50
Woods	91 50	81 00	55 50	92 00	67 50	108 50
Hovely	91 50	81 00	55 50	92 00	67 50	108 50
Brawley	91 50	81 00	55 50	92 00	67 50	108 50
Katsura	91 50	81 00	55 50	92 00	67 50	108 50
Melon	91 50	81 00	55 50	92 00	67 50	108 50
Grape	91 50	81 00	55 50	92 00	67 50	108 50
Imperial	91 50	81 00	55 50	92 00	67 50	108 50
El Centro	91 50	81 00	55 50	92 00	67 50	108 50
Heber	91 50	81 50	56 50	93 50	72 00	114 50
Calexico	91 50	81 50	56 50	93 50	72 00	114 50

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SCHEDULE NO. 5.

Between Los Angeles, Nadeau and	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Bertram	100	81½	70½	62½	58	58	40½	30	25	20½
Pope	100	84½	70½	62½	58	58	40½	30	25	20½
Frink	103	87½	72	64½	59½	59½	40½	31½	27	20½
Wister	103	87½	72	64½	59½	59½	40½	31½	27	20½
Mundo	105	89½	74	65½	61½	61½	42½	31½	27	20½
Niland	105	89½	74	65½	61½	61½	42½	31½	27	20½
Estelle	106½	90½	75	67½	61½	61½	42½	31½	27	22
Calipatria	106½	90½	75	67½	61½	61½	42½	31½	27	32
Poppy	106½	90½	75	67½	61½	61½	42½	31½	27	22
Fondo	106½	90½	75	67½	61½	61½	42½	31½	27	22
Casaba	106½	90½	75	67½	61½	61½	42½	31½	27	22
Westmoreland	106½	90½	75	67½	61½	61½	42½	31½	27	22
Bernice	106½	90½	75	67½	61½	61½	42½	31½	27	22
Rockwood	106½	90½	75	67½	61½	61½	42½	31½	27	22
Woods	106½	90½	75	67½	61½	61½	42½	31½	27	22
Hovely	106½	90½	75	67½	61½	61½	42½	31½	27	22
Brawley	106½	90½	75	67½	61½	61½	42½	31½	27	22
Katsura	106½	90½	75	67½	61½	61½	42½	31½	27	22
Melon	106½	90½	75	67½	61½	61½	42½	31½	27	22
Grape	106½	90½	75	67½	61½	61½	42½	31½	27	22
Imperial	109½	94	77	69	62½	62½	44	33	28	22
El Centro	109½	94	77	69	62½	62½	44	33	28	22
Heber	109½	94	77	69	62½	62½	44	33	28	22
Calexico	109½	94	77	69	62½	62½	44	33	28	22
Flowing Well	105	89½	74	65½	61½	61½	42½	31½	27	20½
Iris	106½	90½	75	67½	61½	61½	42½	31½	27	22
Tortuga	106½	90½	75	67½	61½	61½	42½	31½	27	22
Amos	106½	90½	75	67½	61½	61½	42½	31½	27	22
Acolita	106½	90½	75	67½	61½	61½	42½	31½	27	22
Mesquite	109½	94	77	69	62½	62½	44	33	28	22
Glamis	109½	94	77	69	62½	62½	44	33	28	22
Ruthven	109½	94	77	69	62½	62½	44	33	28	22
Drylyn	109½	94	77	69	62½	62½	44	33	28	22
Cactus	112½	95½	78	70½	64½	64½	45½	34½	28	22
Ogilby	112½	95½	78	70½	64½	64½	45½	34½	28	22
Knob	112½	95½	78	70½	64½	64½	45½	34	28	22
Araz Junction	112½	95½	78	70½	64½	64½	45½	34½	28	22
Cantu	112½	95½	78	70½	64½	64½	45½	34½	28	22
Araz	112½	95½	78	70½	64½	64½	45½	34½	28	22
Colorado	115½	99	81½	72	67½	67½	47	34½	30	24
Rawlings	115½	99	81½	72	67½	67½	47	34½	30	24
Bard	115½	99	81½	72	67½	67½	47	34½	30	24
Sellew	115½	99	81½	72	67½	67½	47	34½	30	24
Laguna	115½	99	81½	72	67½	67½	47	34½	30	24
Potholes	115½	99	81½	72	67½	67½	47	34½	30	24

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SCHEDULE NO. 6.

Between San Pedro (Center St.), Wilmington and	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Bertram	105	89½	74	65½	61½	61½	42½	31½	27	20½
Pope	106½	90½	76	67½	61½	61½	42½	31½	27	22
Frink	106½	90½	75	67½	61½	61½	42½	31½	27	22
Wister	106½	90½	75	67½	61½	61½	42½	31½	27	22
Mundo	106½	90½	75	67½	61½	61½	42½	31½	27	22
Niland	109½	94	77	69	62½	62½	44	33	28	22
Estelle	109½	94	77	69	62½	62½	44	33	28	22
Calipatria	109½	94	77	69	62½	62½	44	33	28	22
Poppy	109½	94	77	69	62½	62½	44	33	28	22
Fondo	109½	94	77	69	62½	62½	44	33	28	22
Casaba	109½	94	77	69	62½	62½	44	33	28	22
Westmoreland	112½	95½	78	70½	64½	64½	45½	34½	28	22
Bernice	109½	94	77	69	62½	62½	44	33	28	22
Rockwood	109½	94	77	69	62½	62½	44	33	28	22
Woods	109½	94	77	69	62½	62½	44	33	28	22
Hovely	109½	94	77	69	62½	62½	44	33	28	22
Brawley	109½	94	77	69	62½	62½	44	33	28	22
Katsura	112½	95½	78	70½	64½	64½	45½	34½	28	22
Melon	112½	95½	78	70½	64½	64½	45½	34½	28	22
Grape	112½	95½	78	70½	64½	64½	45½	34½	28	22
Imperial	112½	95½	78	70½	64½	64½	45½	34½	28	22
El Centro	112½	95½	78	70½	64½	64½	45½	34½	28	22
Heber	112½	95½	78	70½	64½	64½	45½	34½	28	22
Calexico	115½	99	81½	72	67½	67½	47	34½	30	24
Flowing Well	109½	94	77	69	62½	62½	44	33	28	22
Iris	109½	94	77	69	62½	62½	44	33	28	22
Tortuga	109½	94	77	69	62½	62½	44	33	28	22
Amos	109½	94	77	69	62½	62½	44	33	28	22
Acolita	112½	95½	78	70½	64½	64½	45½	34½	28	22
Mesquite	112½	95½	78	70½	64½	64½	45½	34½	28	22
Glamis	112½	95½	78	70½	64½	64½	45½	34½	28	22
Ruthven	112½	95½	78	70½	64½	64½	45½	34½	28	22
Drylyn	115½	99	81½	72	67½	67½	47	34½	30	24
Cactus	115½	99	81½	72	67½	67½	47	34½	30	24
Ogilby	115½	99	81½	72	67½	67½	47	34½	30	24
Knob	115½	99	81½	72	67½	67½	47	34½	30	24
Araz Junction	115½	99	81½	72	67½	67½	47	34½	30	24
Cantu	119	102	83	75	69	69	47	36½	30	24
Araz	115½	99	81½	72	67½	67½	47	34½	30	24
Colorado	119	102	83	75	69	69	47	36½	30	24
Rawlings	119	102	83	75	69	69	47	36½	30	24
Bard	119	102	83	75	69	69	47	36½	30	24
Sellew	119	102	83	75	69	69	47	36½	30	24
Laguna	119	102	83	75	69	69	47	36½	30	24
Potholes	119	102	83	75	69	69	47	36½	30	24

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DECISION No. 10794.

IN THE MATTER OF THE APPLICATION OF CHOWCHILLA PACIFIC RAILWAY COMPANY TO SELL ITS RAILROAD, ROLLING STOCK, RIGHTS OF WAY, FRANCHISES, ETC., TO FRANK G. DRUM.

Application No. 8030.

Decided July 29, 1922.

E. J. Foulds, for Applicants.

BENEDICT, *Commissioner*.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing the sale and transfer of the railroad, rights and properties of Chowchilla Pacific Railway Company to Frank G. Drum.

Chowchilla Pacific Railway Company was organized on or about May 6, 1913, for the purpose of constructing and operating a standard gauge railroad from Chowchilla, on the line of the Southern Pacific in Madera County, to a point known as Dairyland on the Chowchilla Ranch, a distance of about ten miles. It appears that the road was constructed at a cost of $105,827.90 and that it has been operated primarily for the transportation of agricultural products from the property along its line. The record shows that its operations have been conducted at a loss.

The testimony of O. A. Robertson, president of Chowchilla Pacific Railway Company, shows that all of the company's outstanding stock, amounting to $10,000, is held by United States Farm Land Company, and that this company, whose business is strictly of a land nature, is inexperienced in operating a railroad and can not give the service required of a common carrier.

For these reasons it has been decided to sell the railroad properties. Frank G. Drum has agreed to purchase such properties for $50,000 and to operate them thereafter as a common carrier. It is thought by applicants that the proposed transfer of properties to Mr. Drum will result in their being operated for the better interest of the public than they are at present.

I submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

It is hereby ordered, that Chowchilla Pacific Railway Company be and it is hereby authorized to sell and transfer all of its properties

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referred to in this application, to Frank G. Drum for $50,000, and Frank G. Drum be and he is hereby authorized to acquire such properties.

The authority herein granted is subject to the following conditions:

1. The price at which the properties are herein authorized to be transferred shall not hereafter be urged before this Commission, or other court, or public body, as a measure of value in fixing rates or for any purpose other than the transfer herein authorized.

2. Frank G. Drum shall file with the Commission a certified copy of the deed by which he obtains title to the properties he is herein authorized to acquire.

3. The authority herein granted shall apply only to such properties as may be transferred on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of July, 1922.

DECISION No. 10795.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR ARTIFICIAL GAS SUPPLIED TO THE CITY OF SANTA BARBARA AND UNINCORPORATED COMMUNITIES IN THE COUNTY OF SANTA BARBARA.

Application No. 5234.

Decided July 29, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9127 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates upon approval of the Railroad Commission would be subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of oil above or below the price of $2.54 per barrel at the company's plant in Santa Barbara; and

Whereas, Southern Counties Gas Company of California has heretofore filed with this Commission affidavit that the price paid for oil was reduced to $1.95 per barrel at its gas plant in Santa Barbara, and the Commission having in Decision No. 10582 ordered reductions totaling 15 cents per 1000 cubic feet from the rates fixed in Decision No. 9127; and

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Whereas, Southern Counties Gas Company of California now makes affidavit that, effective July 15, 1922, Southern Counties Gas Company is able to purchase oil of satisfactory quality at an average price of $1.70 per barrel delivered at its gas plant in Santa Barbara, this being a further decrease of 25 cents and a total decrease of 84 cents per barrel from the price on which the rates were established in Decision No. 9127;

It is hereby ordered, that the rates set forth in Decision No. 9127, in Application No. 5234, designated as Schedules Nos. 1, 2 and 3, be and they are hereby reduced by 22 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 15, 1922, this being a further reduction of 7 cents per 1000 cubic feet.

It is hereby further ordered, that Southern Counties Gas Company of California file with the Commission on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California this twenty-ninth day of July, 1922.

DECISION No. 10796.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE AND OPERATIONS OF THE CONTRA COSTA GAS COMPANY, ON THE COMMISSION'S OWN MOTION.

Case No. 1653.

Decided July 31, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9725 in the above entitled matter, this Commission provided with reference to the rate Schedules Nos. 1 and 3 therein established, that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of oil below the price of $1.64 per barrel; and

Whereas, Contra Costa Gas Company has heretofore filed with this Commission an affidavit that the price paid for oil was reduced 8 cents per barrel and the Commission has in consequence, in Decision No. 9909, ordered a reduction of 2 cents per 1000 cubic feet; and

Whereas, Contra Costa Gas Company now files affidavit that in accordance with the terms of a contract submitted to it the price of oil to Contra Costa Gas Company will be, on and after July 15, 1922, $1.31 per barrel;

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It is hereby ordered, that the rates set forth in Decision No. 9725 be and they are hereby reduced by 10 cents per 1000 cubic feet, effective for all meter readings taken on and after August 15, 1922, this being a further reduction of 8 cents per 1000 cubic feet.

It is hereby further ordered, that the Contra Costa Gas Company file on or before August 15, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this thirty-first day of July, 1922.

DECISION No. 10797.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

Application No. 6326.

Decided July 31, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9132, in the above entitled matter, this Commission provided with reference to the rates therein established that such rates upon approval of the Railroad Commission would be subject to increase or decrease on the basis of 1 cent per thousand cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.75 per barrel at the company's plant in Los Angeles, and

Whereas, Los Angeles Gas and Electric Corporation has heretofore filed with this Commission affidavit that the price paid for oil was reduced to $1.50 per barrel at its plant in Los Angeles, and the Commission has, in Decision No. 9361, ordered reduction of 2 cents per 1000 cubic feet from the basic rates fixed in Decision No. 9132, and

Whereas, Los Angeles Gas and Electric Corporation has filed, under date of July 22, 1922, affidavit that, effective July 15, 1922, the price for crude oil will be reduced from $1.50 per barrel, delivered at the receiving tanks of said Los Angeles Gas and Electric Corporation, to $1.25 per barrel;

It is hereby ordered, that the rates set forth in Decision No. 9132, in Application No. 6362, designated as Schedules Nos. 1, 2, 3, 4, and A, be and they are hereby reduced by 5 cents per thousand cubic feet, effective for all regular meter readings taken on and after September 1, 1922, this being a further reduction of 3 cents per 1000 cubic feet.

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It is hereby further ordered, that Los Angeles Gas and Electric Corporation file with the Commission on or before September 1, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this thirty-first day of July, 1922.

DECISION No. 10798.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN, AND A GENERAL ADJUSTMENT OF, ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided July 31, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9133, in the above entitled matter, this Commission provided with reference to Rate Schedules Nos. A–1, A–4 and A–5 therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10-cent increase or decrease respectively in the cost of oil as might from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, and

Whereas, this Commission has this day, by Decision No. 10797, ordered Los Angeles Gas and Electric Corporation to reduce its gas rates as specified in Decision No. 9132 by 5 cents per 1000 cubic feet, this being a further reduction of 3 cents per 1000 cubic feet;

It is hereby ordered, that the rates as set forth in Decision No. 9133 in Application No. 6338, designated as Schedules Nos. A–1, A–4 and A–5, be and they are hereby reduced by 5 cents per 1000 cubic feet, effective for all regular meter readings taken on and after September 1, 1922, this being a further reduction of 3 cents per 1000 cubic feet.

It is hereby further ordered, that Southern California Gas Company file with the Commission on or before September 1, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this thirty-first day of July, 1922.

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DECISION No. 10800.

L. LEROY KING AND CHARLES JENNINGS -

vs.

THE ROSEVILLE WATER COMPANY, A CORPORATION.

Case No. 1764.

Decided August 1, 1922.

Broyer and Anderson, by *L. C. Anderson*, for Complainants.
Meredith, Landis and Chester, by *James D. Meredith*, for Defendant.

BY THE COMMISSION.

OPINION.

The above proceeding is brought by King and Jennings, who are associated together in a real estate subdivision project which is located inside the corporate limits of the city of Roseville.

Complainants desire water service for the 26 lots that have been placed on the market and pray for an order of the Commission requiring the Roseville Water Company, a public utility, to give service to the above property upon the advance by complainants of the entire installation costs of the pipe needed on the property.

Answer by defendant Roseville Water Company avers that the revenues to be derived are insufficient to warrant the required expenditure and asks that the relief sought by the complaint be denied.

A public hearing was held in this matter at Roseville before Examiner Satterwhite. It appears that complainants own and have subdivided a tract of land consisting of 26 lots, located on Placer avenue and Folsom road, between Ben Ezra avenue and Douglas street, in the city of Roseville. Application was made to the Roseville Water Company for service. This service was refused by the company unless complainants advance all costs for piping the tract and also the cost of enlarging 1250 feet of 2-inch diameter pipe to 4-inch, on Placer avenue from Sutter to Ben Ezra avenue. About 22 consumers are now receiving water service from this main.

Prior to the hearing in an attempt to dispose of the controversy, the Commission informally suggested that King and Jennings advance the cost of piping the tract, and advance an additional amount to cover the cost of a connection to the end of the utility's present 2-inch main on Placer avenue near its intersection with Ben Ezra avenue, the total amount advanced to be returned by the utility on the basis of 25 per cent of the monthly revenues derived from this territory, provided that no refunds are to be made after the expiration of ten years. This suggestion was refused by the utility.

The utility advocated the extension of a main from Nevada avenue and along Ben Ezra avenue to its intersection with Placer avenue and

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thence to the tract, the entire cost to be borne by complainants. We have no objection to this plan except that the suggested financing appears unduly burdensome on the complainants.

Consumers residing on Placer avenue testified that service was very poor, there being times when water could not be obtained from the lowest tap. The manager of the water company admitted the poor service conditions, though it was expected that relief would be given immediately by the replacement of 300 feet of 2-inch pipe by 3½-inch. Service requirements on this street, however, indicate that the minimum replacement should be 600 feet of 4-inch (inside diameter) pipe.

The company has known for over a year of the poor service in this section, and this Commission will expect that prompt and adequate measures will be taken to render the character of service that the consumers are entitled to receive. If the service conditions are not adequately remedied, the Commission will look with favor upon an action brought by these consumers.

The improvement of service on Placer avenue is a necessity regardless of any demand that King and Jennings' tract might make on the system. As the order of the Commission will provide for the financing of the pipe installation on the tract and the connection to the existing main on Placer avenue, the utility is not burdened in any way, and should the demands for service on complainants' tract increase, the resulting additional revenue would justify the utility in further replacement of the Placer avenue main, in order that good service be continued.

ORDER.

L. Leroy King and Charles Jennings having made complaint against the Roseville Water Company as outlined above, a public hearing having been held and the matter being now ready for decision;

It is hereby ordered, that Roseville Water Company provide service to the King and Jennings tract and lay the necessary mains from the end of the present main on Placer avenue near its intersection with Ben Ezra avenue, to and throughout the said tract, provided that L. Leroy King and Charles Jennings advance the full installation costs, which advance is to be returned by the Roseville Water Company at the rate of 25 per cent of the gross monthly revenues received from the extension beginning at the connection with the present Placer avenue main, and provided further that no refunds will be required after the expiration of ten years.

It is hereby further ordered, that upon the above advance installation cost being made, the Roseville Water Company proceed with diligence in completing the extension.

Dated at San Francisco, California, this first day of August, 1922.

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DECISION No. 10801.

IN THE MATTER OF THE APPLICATION OF THE VISALIA CITY WATER COMPANY FOR PERMISSION TO AMEND SECTION THIRTY-FIVE OF ITS SCHEDULE OF RATES BY ADDING A NEW SUBDIVISION THERETO.

Application No 7745.

Decided August 1, 1922.

RATES—WATER UTILITY—MINIMUM CHARGE.—A minimum charge of some kind is held to be a proper inclusion in the schedule of meter rates of a water utility.

Power and McFadzean, by *Daniel McFadzean*, for Applicant.

BY THE COMMISSION.

OPINION.

Visalia City Water Company, applicant in this proceeding, is a public utility engaged in the distribution and sale of water for general commercial and domestic uses in and in the vicinity of the city of Visalia.

Allegation is made that the present rates for metered service do not provide for any monthly minimum, wherefore it is desired that authority be given to include in the present schedule of rates a minimum monthly rate for all metered service.

A public hearing was held at Visalia before Examiner Satterwhite. All interested parties had been notified of the hearing and given an opportunity to appear and be heard.

It appears that the rates now in effect were established by city ordinance, and when the Commission was authorized to exercise its jurisdiction over utilities operating in the corporate limits of municipalities, these rates were accepted for filing, as the law permitted, and no change has since been made.

No protest to these rates has been offered except that contained in the application of the utility wherein objection is offered to the present standby service enjoyed by a few consumers, without any payment whatsoever. Testimony at the hearing was in accord, and manifestly such service to users, some of whom have a private supply and depend on the utility for private fire service and at such times as their own plants fail to operate, is unjust to the regular consumer and is in general contrary to the accepted schedules in effect for those classifications.

The Commission is of the opinion that a minimum charge of some form is a proper inclusion in the schedule of meter rates of a water utility, and therefore will provide a proper charge in this instance. The alteration hereinafter ordered in the metered rate schedule will make little or no change in the monthly bills of the small number of consumers now receiving measured service, as the amount of water used will probably be within the quantity included in the minimum charge.

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Only 3 per cent of the total number of consumers are now served through meters.

The Commission is not at this time passing upon the reasonableness of the present rates. The minimum monthly meter rates that will be authorized are deemed to be fair to all parties concerned.

ORDER.

Visalia City Water Company having applied to the Railroad Commission for authority to include a minimum meter rate in section 35 of its schedule rates, a public hearing having been held, the matter being submitted and now ready for decision:

It is hereby found as a fact that the present rate schedule of the Visalia City Water Company, in so far as it differs from the rate schedule herein ordered, is unjust and unreasonable and that the rates herein established are just and reasonable rates to be charged by said company for service.

And basing its order upon the foregoing finding of fact, and the other statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Visalia City Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days of the date of this order, the following schedule:

Monthly Minimum Meter Charges.

⅝-inch meter	$0 75
¾-inch meter	1 00
1-inch meter	1 25
1½-inch meter	2 00
2-inch meter	2 75
3-inch meter	4 00
4-inch meter	8 00

The above minimum charges are to be applied in connection with section 35 of the schedule of rates of applicant now on file with this Commission, and are to become effective for all metered service rendered subsequent to September 1, 1922.

It is hereby further ordered, that except as amended above, the rates and charges of the Visalia City Water Company shall remain as at present on file with this Commission.

Dated at San Francisco, California, this first day of August, 1922.

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DECISION No. 10811.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.

Decided August 1, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9125 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates would be subject to increase or decrease by amounts as set forth therein upon approval of the Railroad Commission, based upon a change in the price paid for oil in the various communities served, and

Whereas, Pacific Gas and Electric Company has heretofore filed with this Commission affidavits that the price paid for oil has been heretofore reduced by a total of 50 cents per barrel, and the Commission having in consequence, in Decision No. 9125, ordered reductions as follows:

Schedule G-1	10 cents per 1,000 cubic feet
Schedule G-3	12 cents per 1,000 cubic feet
Schedule G-4	11 cents per 1,000 cubic feet
Schedule G-5	12 cents per 1,000 cubic feet
Schedule G-6	13 cents per 1,000 cubic feet
Schedule G-7	14 cents per 1,000 cubic feet
Schedule G-8	15 cents per 1,000 cubic feet
Schedule G-9	11 cents per 1,000 cubic feet

And whereas, Pacific Gas and Electric Company now makes affidavit that as of July 25, 1922, the price paid for oil was further reduced by 25 cents per barrel, this being a total decrease of 75 cents per barrel from the base prices on which rates were established in Decision No. 9125;

It is hereby ordered, that the rates set forth in Decision No. 9125 in Application No. 6108, be and they are hereby reduced as follows, effective for all regular meter readings taken on and after August 25, 1922:

	Total reduction	Reduction from rates now in effect
Schedule G-1	15 cents	5 cents per 1,000 cubic feet
Schedule G-3	18 cents	6 cents per 1,000 cubic feet
Schedule G-4	16 cents	5 cents per 1,000 cubic feet
Schedule G-5	19 cents	7 cents per 1,000 cubic feet
Schedule G-6	19 cents	6 cents per 1,000 cubic feet
Schedule G-7	21 cents	7 cents per 1,000 cubic feet
Schedule G-8	23 cents	8 cents per 1,000 cubic feet
Schedule G-9	16 cents	5 cents per 1,000 cubic feet

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It is hereby further ordered, that Pacific Gas and Electric Company file with the Commission, on or before August 25, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this first day of August, 1922.

DECISION NO. 10812.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATION OF CENTRAL COUNTIES GAS COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1661.

Decided August 1, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9844 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of oil above or below the price of $1.76 per barrel, f. o. b. Visalia, and

Whereas, Central Counties Gas Company has heretofore filed affidavit that the price paid for oil was reduced 41 cents per barrel and the Commission has, in consequence, in Decision No. 10779, ordered reduction of 12 cents per 1000 cubic feet effective August 15, 1922, and

Whereas, Central Counties Gas Company now makes affidavit that, effective July 27, 1922, a further reduction of 25 cents per barrel is made in the price paid for oil, making a total reduction of 66 cents per barrel;

It is hereby ordered, that the rates set forth in Decision No. 9844, in Case No. 1661, designated as Schedules A and B, be and they are hereby reduced by 20 cents per 1000 cubic feet, effective for all regular meter readings taken on and after August 27, 1922, this being a further reduction of 8 cents per 1000 cubic feet.

It is hereby further ordered, that Central Counties Gas Company file with the Commission, or or before August 27, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this first day of August, 1922.

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DECISION No. 10813.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO TRANSPORT PERSONS AND PROPERTY, FOR COMPENSATION, BY MEANS OF AUTOMOBILE BUSSES, BETWEEN THE CITY OF OAKLAND, CALIFORNIA, AND SACRAMENTO, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 7693.

Decided August 1, 1922.

Sanborn and Rochl and *DeLancy Smith*, by *DeLancy Smith*, for the Applicant.
Herbert W. Clark and *Albert B. Whittle*, for the San Francisco-Oakland Terminal Railways, Protestant.
Jesse H. Steinhart, for the San Francisco and Sacramento Railroad Company, Protestant.
Frank B. Austin, for the Southern Pacific Company, Protestant.
Chas. R. Detrick, for the Sacramento Northern Railroad, Protestant.
C. W. Dooling, for the Western Pacific Railroad Company, Protestant.

BENEDICT, *Commissioner*.

OPINION.

California Transit Company, a corporation, has filed an application with the Railroad Commission, in which it petitions for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between Oakland and Sacramento and intermediate points, as more fully outlined therein.

Public hearings were held upon the above entitled proceeding on May 3 and 4, 1922, at which time the same was submitted, and is now ready for decision.

This proceeding grew out of an order of the Commission issued on December 20, 1921—Decision No 9892, in Applications Nos. 5274 and 5361—in which decision the Commission held as follows:

> We think it is clear from what has been shown that operative rights under certificates separately granted can not be lawfully combined for the establishment of a through service without first obtaining from the Railroad Commission a certificate of public convenience and necessity authorizing the through service.

In accordance with said decision, California Transit Company filed its application hereinunder consideration.

Considerable testimony was introduced with reference to the operative rights held by the California Transit Company, successor to the Western Motor Transport Company, which in turn, secured operative rights from several copartnerships and individuals. There is no question as regards the individual, separate operative rights held by the California Transit Company, and I will not, at this time, review the decisions granting individual certificates to copartnerships or individuals, which certificates are now held by the California Transit Company, as they were not contested. This company does hold certificates authorizing operation between Oakland and Vallejo and also operation between

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Vallejo and Sacramento. The sole question at issue is whether or not public convenience and necessity require the operation by California Transit Company of a through automobile stage service as a common carrier of passengers between Oakland and Sacramento and intermediate points. Such a service is now being rendered by California Transit Company, and has been so rendered for several years by Western Motor Transport Company and its successor, California Transit Company, under the impression that, due to the fact that connecting certificates were held in the name of one company, such company could legally operate through stages rendering a through transportation service over routes covered by two or more of such certificates.

When making application for permission to operate through service under two or more certificates held by the same individual, copartnership or company, I am of the opinion that it is incumbent upon the applicant who desires to render such through service to show that public convenience and necessity require its inauguration. Though it is true that the Commission, in Decision No. 9892, states that due consideration must, of course, be given to the circumstances surrounding the establishment of through service prior to the issuance of the above numbered decision, Chapter 213, Statutes of 1917, as amended, clearly provides that the Commission, as a regulatory body of the state, shall first determine, after consideration of all the facts and circumstances, whether public convenience and necessity require the operation before any service may be undertaken different from that originally authorized.

Applicant herein, in support of its petition for certificate authorizing the operation of through service, called two of its operating officials as witnesses. One of such witnesses confined practically the whole of his testimony to a review of the history of applicant and its predecessors, concluding that, in his opinion, public necessity required the establishment of through service. Applicant's second witness testified merely as to operating conditions and the ability of California Transit Company to provide adequate service as called for by its time schedules. Two exhibits were also filed by applicant; No. 1 containing a statement of passengers carried between various points, Oakland to Sacramento, during the period May, 1921, to March, 1922. The important part of this exhibit is the segregation of passenger travel between Oakland and Vallejo, Oakland and Sacramento, and Oakland and miscellaneous points north of Vallejo; also the segregation of passenger travel between Sacramento and Vallejo, Sacramento and Oakland, and Sacramento and miscellaneous points south of Vallejo. Exhibit No. 2 was a recapitulation of the figures contained in Exhibit No. 1.

Referring to Exhibit No 1 of applicant herein, the figures show through passenger traffic between Oakland and Sacramento for the

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period May, 1921, to March, 1922, ranging from a maximum of 582 per month to a minimum of 153 per month; and from Sacramento to Oakland for the same period, a maximum of 417 per month to a minimum of 112 per month; or an average for the eleven months' period:

From Oakland to Sacramento of 318
From Sacramento to Oakland of 273
Or an average per day of_____ 20

Passengers, Oakland to miscellaneous points north of Vallejo, average 273 per month, and from Sacramento to miscellaneous points south of Vallejo, 129 per month, or a total average per day in both directions of 13.

San Francisco and Sacramento Railroad Company, San Francisco-Oakland Terminal Company, Southern Pacific Company, Sacramento Northern Railroad, and Western Pacific Railroad Company protested the granting of the application as herein applied for. Three of these railroads submitted evidence and exhibits tending to show the service they are rendering at the present time covering through traffic between Oakland and Sacramento. Exhibit No. 3, submitted by protestants, was a combined time table of the train schedules of Southern Pacific Company between Oakland and Sacramento over its Benicia route and the train schedules of San Francisco and Sacramento Railroad Company. These combined schedules showed a total of 16 east-bound trains per day and a total of 18 west-bound trains per day.

A comparison of the time schedule offered by the stage line applicant herein and of the railroads showed the fastest railroad time between Oakland and Sacramento to be 2 hours and 38 minutes, while the fastest stage time was 4 hours and 15 minutes. The average stage time was 4 hours and 37 minutes, and the average rail time 2 hours and 59 minutes; the slowest rail time being 3 hours and 45 minutes, or 30 minutes faster than the fastest stage time.

The one-way stage fare offered by applicant stage line is slightly lower than the one-way fare charged by the railroad companies, though the average fare charged by the San Francisco and Sacramento Railroad Company is $2.61 as against $2.80 by stage.

The stage line at the present time operates seven through trips per day from Oakland, and occasionally three stages on each trip, the average being slightly more than one stage per trip, the stages owned and operated ranging in capacity from eleven to twenty passengers each.

In addition to the service rendered by Southern Pacific Company and San Francisco and Sacramento Railroad Company above mentioned, the Southern Pacific Company and Western Pacific Railroad Company also operate four round trips per day between Oakland and Sacramento,

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via Stockton. This service, however, is not of material importance in the present proceeding, due to the fact that the Stockton trip is an extremely circuitous one for travel between Oakland and Sacramento, and is very infrequently used by passenger traffic between such points.

A considerable number of exhibits were also introduced by the San Francisco-Oakland Terminal Railways showing service rendered by that company between Oakland and Richmond. I believe, however, that it will be unnecessary to review this testimony, as there is no question at this time as regards the adequacy of the service now being rendered between Oakland and Richmond.

After full consideration of the evidence and exhibits introduced in this proceeding, I am of the opinion, and find as a fact, that the California Transit Company has failed to show that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers between Oakland and Sacramento and intermediate points. There is, undoubtedly, a necessity for service between certain intermediate points served by applicant herein. This service, however, will in no way be affected through the denial of the present application, and the California Transit Company will still retain its right to operate between Oakland, Vallejo, and intermediate points, and between Vallejo, Sacramento, and intermediate points.

I submit the following form of order:

ORDER.

Public hearings having been held in the above entitled proceeding, evidence submitted, and the Commission being fully advised:

The Railroad Commission hereby declares that public convenience and necessity do not require the establishment by California Transit Company of a through automobile stage service as a common carrier of passengers between Oakland, Sacramento, and intermediate points;

It is hereby ordered, that the above entitled application be and the same is hereby denied, and

It is hereby further ordered, that within ten (10) days after the effective date of Decision No. 9892, California Transit Company shall cancel tariff of rates and time schedules in effect, covering through service between points south of Vallejo to and including Oakland, to points north of Vallejo, to and including Sacramento, and between points north of Vallejo, to and including Sacramento, to points south of Vallejo, to and including Oakland.

Dated at San Francisco, California, this first day of August, 1922.

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DECISION No. 10814.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SAN BERNARDINO FOR PERMISSION TO CONSTRUCT A CROSSING OVER THE TRACK OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT MERIDIAN STREET, SOMETIMES KNOWN AS EAST AVENUE, NEAR RIALTO IN SAN BERNARDINO COUNTY.

Application No. 7384.

Decided August 3, 1922.

John L. Campbell, for Applicant.
E. T. Lucy, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

OPINION.

In this application the county of San Bernardino asks permission to construct Meridian street at grade across track of The Atchison, Topeka and Santa Fe Railway Company about one and one-half miles east of Rialto.

A public hearing was held on this matter on February 3, 1922, before Examiner Williams at San Bernardino.

Meridian street, or East avenue, is a north and south road extending along the west range line between ranges 4 and 5 west, S. B. B. and M., from the base line about two miles north of the Santa Fe to Colton avenue a little over two miles south of the Santa Fe and crosses the Pacific Electric Railway with an overhead structure having 5 per cent grades of approach at a point about 1300 feet north of the Santa Fe. The nearest main north and south roads are Riverside avenue about one and one-half miles to the west in Rialto and Mount Vernon avenue about one and one-half miles to the east in San Bernardino.

Foothill boulevard, Rialto avenue, and Colton avenue are the main east and west thoroughfares in this vicinity. Foothill boulevard lies north of the Pacific Electric track, Rialto avenue lies between the Pacific Electric and the Santa Fe tracks, and Colton avenue lies south of the Santa Fe track.

Although it is thus evident that Meridian street if constructed across the track of the Santa Fe would be in a location for a natural through road for traffic between these main east and west highways, the immediate purpose of this application was to obtain a crossing to serve the convenience of several local property owners in the immediate vicinity of the proposed crossing who heretofore have been using a dirt road along the southerly side of the Santa Fe right of way about one-third of a mile easterly to Rialto avenue east of the point at which the Santa Fe track crosses Rialto avenue.

The proposed crossing is over the main line of the Santa Fe, over which there are about twenty trains operated daily, some at very high speeds. The track at this point is on a curve and is approximately ten

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feet above the adjacent ground surface. The view to the west is seriously obstructed by orange groves and eucalyptus trees, and a grade crossing at this point would have the further objection of being approached by a relatively long 5 per cent grade from either side. Inasmuch as there is an existing crossing of a local road at Pepper avenue, one-quarter mile west of Meridian street, it is difficult to justify the hazard incident to a grade crossing at Meridian street for the purpose of serving the immediate local interests. Pepper avenue, however, does not connect the Foothill boulevard and Colton avenue and is therefore not adapted to taking care of through traffic; but Meridian street is located in a logical position to act as a through north and south cross road between the Foothill boulevard, Rialto avenue and Colton avenue, and inasmuch as Meridian street already crosses the Pacific Electric with an overhead crossing, it is clear that with a separated grade at the Santa Fe crossing it could be made not only a desirable but a safe north and south artery of travel.

The present through north and south travel moves via Riverside avenue and Mount Vernon avenue, the former crossing the Santa Fe at grade. If Meridian street were opened across the Santa Fe and the street properly improved, there is no question but that a considerable portion of the traffic now moving over the Riverside avenue crossing would be diverted to Meridian street, but this would promote the public safety only in the event that Meridian street were opened across the Santa Fe in a manner other than at grade. Due to the fact that the Santa Fe is on a considerable embankment at this location, the location renders itself readily to the installation of an undergrade crossing, except for the possible difficulty of drainage as the territory south of the track is quite flat. If, however, a subway were installed with an overhead clearance of about twelve feet, this matter of drainage could probably be taken care of without resorting to pumps or other artificial means; and under these circumstances an overhead clearance of twelve feet would seem to be justified in this case.

It was estimated that the cost of properly installing a grade crossing and protecting the same with an automatic flagman—and under no circumstances should a grade crossing be installed at this location without the protection of an automatic flagman—would be about $3,000. This high cost is due to the fact that an extensive fill would be necessary for the approaches. It was estimated that a temporary undergrade crossing could be constructed for approximately $4,500, and that a permanent concrete and steel structure, with twenty feet clear roadway between abutments and a full standard clearance of fourteen feet, together with provision for necessary drainage, would cost approximately $12,000.

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In accordance with a stipulation made at the hearing, the Santa Fe has presented a more definite plan and estimate for a wooden structure at this point, and this latter plan being based upon constructing a semi-permanent structure of creosoted piles and timber, which would probably have a life in excess of twenty-five years. This semi-permanent structure, it is estimated, would cost approximately $7,000, based upon providing two twelve-foot clear openings. This would probably be the most economical type of structure for this particular location, and under these circumstances it is quite clear that a grade crossing should not be installed which in itself would be very hazardous and would cost nearly half as much as a satisfactory undergrade crossing. The installation of an undergrade crossing would not only entirely serve the local needs, but if Meridian street were properly improved between Foothill boulevard and Colton avenue and the highway routing signs were so arranged as to direct travel over Meridian street, the existing hazards at other crossings would be materially reduced, and under these circumstances it appears equitable that the railroad should participate in the cost of such a grade separation if undertaken.

On the other hand, it appears that it would not be proper to require the railroad to participate in this expense unless the remainder of Meridian street, which is now only a gravel road in fair condition, were so improved as to actually invite the through north and south traffic, thus relieving the railroad of some of its hazard at other grade crossings. It does not seem to be feasible at this time to eliminate entirely any of the adjacent grade crossings.

It, therefore, appears that permission should be denied the county to construct a grade crossing at this location, but that permission should be granted the county to construct an undergrade crossing upon the condition that the Santa Fe should bear fifty per cent of the cost, providing Meridian street is paved for its entire distance from Foothill boulevard to Colton avenue.

ORDER.

The county of San Bernardino having made application for permission to construct a public highway at grade across the track of The Atchison, Topeka and Santa Fe Railway Company at Meridian street, a public hearing having been held, the Commission having been apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public necessity and convenience do not justify the menace to public safety that would result from the establishment of a public crossing at grade over the track of The Atchison, Topeka and Santa Fe Railway Company at Meridian street; and

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It is hereby further found as a fact that it would be in the interest of public convenience and necessity to have said Meridian street constructed underneath the track of The Atchison, Topeka and Santa Fe Railway Company as hereinafter indicated; therefore,

It is hereby ordered, that permission to construct Meridian street across the track of The Atchison, Topeka and Santa Fe Railway Company be and it is hereby denied.

It is hereby further ordered, that the county of San Bernardino be and it is hereby authorized to construct Meridian street under the tracks of The Atchison, Topeka and Santa Fe Railway Company along the west range line between ranges 4 and 5 west, S. B. B. and M., subject to the following conditions and not otherwise:

1. The proposed undergrade crossing shall be constructed in accordance with detail plans which shall be submitted to and have the approval of this Commission.

2. The entire expense of constructing the undergrade crossing shall be borne by the county of San Bernardino, except that if Meridian street shall have been improved with a hard surface pavement its entire distance from Foothill boulevard to Colton avenue, one-half of said construction expense shall be borne by the county of San Bernardino and one-half shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

3. The entire expense of maintaining the supporting track structure of said undergrade crossing shall be borne by The Atchison, Topeka and Santa Fe Railway Company. The entire expense of maintaining the roadway, including proper drainage facilities, shall be borne by the county of San Bernardino.

4. The provisions of General Order No. 26 of this Commission, which are pertinent herein, shall be complied with, except that the vertical clearance between the pavement and the supporting track structure may be not less than 12 feet.

5. The county of San Bernardino shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of installation of said undergrade crossing.

6. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and revoke its permission if in its judgment public convenience and necessity demand such action.

Dated at San Francisco, California, this third day of August, 1922.

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DECISION No. 10825.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER ESTABLISHING JUST AND REASONABLE RATES FOR THE SALE OF ELECTRICITY.

Application No. 5394.

Decided August 3, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, this Commission in Decision No. 9014, in the above entitled proceeding, dated the twenty-sixth day of May, 1921, directed the Southern California Edison Company to file a stipulation duly executed by its board of directors, agreeing that it would establish and create from its net earnings a contingency reserve and contingency reserve fund, in the manner and for the purposes specified in said decision; and

Whereas, in said stipulation it was provided that in determining the additions and deductions from said reserve the price paid for oil should be considered on the basis of $2 per barrel at the shipping points; and

Whereas, this Commission in its Decision No. 10350, in Case No. 1710, modified the basis of determining reasonable rates to the extent of reducing the price of oil to $1.50 per barrel as the standard average price instead of $2 per barrel;

It is hereby ordered, that the Southern California Edison Company be and it is hereby authorized to modify said stipulation as filed in accordance with Decision No. 9014, to the extent of reducing the price of oil, as provided therein, from the standard of $2 per barrel at the shipping points to $1.50 per barrel. The above modification is to become effective for the year commencing May 1, 1922.

It is hereby further ordered, that Southern California Edison Company file, within thirty days, the modified stipulation as provided herein.

Dated at San Francisco, California, this third day of August, 1922.

DECISION No. 10828.

WILLIAM J. O'ROURKE AND ADA B. O'ROURKE, HIS WIFE, OSCAR W. WRIGHT AND ETHEL J. WRIGHT, HIS WIFE, AND LEO H. SMITH

vs.

HAINES CANYON WATER COMPANY.

Case No. 1720.

Decided August 10, 1922.

George A. Hart, for Complainants.
Evans and Pearce, by W. E. Evans, for Defendant.
Wallace M. Morgan, for Tujunga Business Men's Association.

BY THE COMMISSION.

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OPINION.

Complainants in the above entitled proceeding own the south 1175.5 feet of acreage lot No. 111, of Monte Vista, in the Rancho Tujunga, county of Los Angeles, California.

Complainants allege in effect that the Haines Canyon Water Company, defendant herein, owns and operates the water system, selling and distributing water to property owners in said Rancho Tujunga; that defendant has refused and still refuses to supply water to the above described land of complainants, although the property is located in the heart of Tujunga, and water is served by defendant to property owners on all sides of complainants' property; and that said property is valueless without water.

Defendant, in its answer, denies all the allegations of complainants, except as to the service of water to certain portions of said Rancho Tujunga not exceeding 1726 acres, to which a definite dedication of its water and water rights was made; that the system is designed for said acreage and is insufficient to furnish water to the land of complainants; that the capacity of the reservoirs from which this territory would receive its water supply is exhausted; that the mains leading to this tract are inadequate for such service and would require the expenditure of a considerable amount of money to supply complainants' land.

A hearing in this matter was held at Tujunga before Examiner Williams, of which the interested parties were notified and given an opportunity to be present and to be heard.

This matter was combined for hearing with Application No. 7593. There was also filed against applicant the informal complaints of Jean Earhart and G. H. Ferguson, which involve the service of water to their property located in what is known as the Descanso Tract. As these matters were all so closely related it was stipulated and agreed by counsel that they be joined with this complaint for decision.

The testimony shows that this defendant did originally dedicate its water supply, under a mutual arrangement made in connection with the sale of land, to 1726 acres of land, known as the Western Empire Tract. Since the inception of this water supply concern many changes have taken place. The water company has become a public utility and the terms of the original agreements have gradually been eliminated, except the acreage dedication, which the defendant has consistently used as a means of promoting the real estate ventures of the California Home Extension Association.

The water system has been extended from time to time to land other than the original Western Empire Tract, as the demands of the Home Extension Association required. The testimony shows that water service was offered to the owners of the tract in question under terms laid down

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by Mr. Hartranft of the Home Extension Association, which terms were not acceptable to the complainants.

The evidence shows that the tract of land in question lies along the state highway, adjacent to the business section of Tujunga. The water system of the defendant, or land admittedly under this system, surrounds it on all sides except one. It is very problematical whether or not an adequate water supply for their needs can be devoloped by complainants on their own lands.

Mr. Lynch, the engineer and president of the Haines Canyon Water Company, testified that water could be developed to adequately supply the needs of all the territory that could reasonably be expected to come under the system, including the lands of complainants. He stated that the present pumping facilities will of necessity have to be enlarged to adequately supply the present territory as it becomes more thickly settled.

In view of the evidence presented, it appears to this Commission that there is not now, if at any time there was, justification for refusal of the Haines Canyon Water Company to include the lands of complainants, and others similarly situated, within the area served by it, when such lands are so located that adequate service is reasonably possible.

ORDER.

William J. O'Rourke, and Ada B. O'Rourke, his wife, Oscar W. Wright and Ethel J. Wright, his wife, and Leo H. Smith having filed formal complaint with the Railroad Commission against Haines Canyon Water Company as outlined above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the complainants herein are entitled to the service of water from the Haines Canyon Water Company;

And basing its order on the foregoing finding of fact and upon the other statements of fact contained in the opinion whch precedes this order;

It is hereby ordered, that Haines Canyon Water Company be and it is hereby directed to furnish water for domestic and irrigation purposes to said complainants under the rates, rules and regulations accepted for filing by the Railroad Commission.

Dated at San Francisco, California, this tenth day of August, 1922.

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DECISION No. 10829.

IN THE MATTER OF THE APPLICATION OF STANTON BAKER FOR PERMISSION TO INCREASE RATES OF CAMARILLO WATER COMPANY.

Application No. 7826.

Decided August 10, 1922.

WATER UTILITY—FLAT RATES—METERS.—Upon a finding that a large amount of water is wasted on a flat rate schedule, the installation of meters is recommended.

A. Camarillo, for Applicant.

BY THE COMMISSION.

OPINION.

Stanton Baker, applicant in the above entitled proceeding, operating under the fictitious name of Camarillo Water Company, asks authority to increase the rates charged for domestic water supplied in and in the vicinity of Camarillo, Ventura County, California. The applicant alleges in effect that the present rates do not yield a revenue sufficient to cover operating expense and pay any interest return on the investment.

A public hearing in the matter was held before Examiner Williams at Camarillo, of which all consumers were notified and given an opportunity to be present and to be heard.

The evidence shows that Stanton Baker died a short time before the time set for hearing. An amended application was then filed, asking that the name of Mrs. Stanton Baker, or Mary Elizabeth Baker, be substituted as the real owner of the property, by deed of gift executed by Stanton Baker on October 14, 1921. Copy of this deed is filed in this proceeding and it is considered to be sufficient evidence of actual transfer of this property for the purposes of this proceeding.

The water supply for this system is pumped from a well into an elevated storage tank, from which it is distributed to the points of use, serving approximately fifty consumers on a flat rate schedule.

The present rates in effect are as follows:

Residences, per month	$2 00
Stores (grocery and dry goods), per month	4 00
Drug stores, per month	3 00
Ice cream parlors, per month	3 00
Garages, per month	2 00
Restaurants, per month	3 50
School houses, per month	8 00
Southern Pacific station, etc., per month	12 00
Poolrooms, per month	2 00
Barber shops, per month	1 00

Mr. F. H. Van Hoesen, of the Commission's engineering staff, submitted a report based on a field investigation of the properties of this utility. This report shows the estimated original cost of the system to

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be $6,398, and a replacement annuity, computed by the 6 per cent sinking fund method, of $188. A reasonable maintenance and operating expense he estimated at $1,460. No other estimates or appraisals were presented, nor were the above figures questioned. A careful analysis indicates the estimates are fair, and they will therefore be used for the purposes of this proceeding.

Annual charges, based upon the foregoing items, are as follows:

Return on $6,398 at 8 per cent	$512 00
Replacement annuity	188 00
Maintenance and operating expense	1,460 00
Total	$2,160 00

The revenue from the sale of water from June 1, 1921, to June 1, 1922, amounted to $1,743. It is therefore apparent that applicant is entitled to a slight increase in rates, which we believe should be secured by an adjustment and modification of the present schedule of rates, rather than by a flat increase in rates.

The testimony shows that a great deal of water is consumed or wasted on the flat rate schedule, causing very poor service in some localities, due in part to the inadequate size of mains and limited storage capacity. In view of this fact, it would seem advisable that applicant install meters on all services as soon as possible and provide additional storage facilities.

The schedule of rates set out in the following order is designed to return to applicant a revenue equal to the annual charges set out above.

ORDER.

Mrs. Stanton Baker, or Mary Elizabeth Baker, operating under the fictitious name of Camarillo Water Company, having made application as entitled above, a public hearing having been held therein, and the matter having been submitted:

It is hereby found as a fact that the public utility property involved in this proceeding has been transferred to Mary Elizabeth Baker, otherwise Mrs. Stanton Baker, and that she should be substituted for her husband, Stanton Baker, as the applicant herein.

It is hereby further found as a fact that the rates now charged by Camarillo Water Company for water delivered to consumers in and in the vicinity of Camarillo, Ventura County, California, are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the foregoing opinion;

It is hereby ordered, that the transfer of the property of the Camarillo Water Company from Stanton Baker to Mary Elizabeth Baker, his wife, be and the same is hereby approved.

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It is hereby further ordered, that Camarillo Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers, effective for all water delivered subsequent to August 31, 1922:

Monthly Flat Rate.

1 Residence of five rooms or less, including toilet and bath	$2 00
For each private garage with not more than one automobile	25
For each additional automobile	15
For each private barn, not to exceed two horses, cows or goats	25
For each additional horse, cow or goat	15
2. Apartments or flat buildings, when served through a single service:	
For each apartment of three rooms or less	1 50
For each additional room	15
For each bath or toilet	25
For each garage, with not more than one automobile	25
For each additional automobile	15
3. For hotels or lodging houses:	
For each room without running water	20
For each room with running water	30
For each bath tub or shower bath in connection with room	25
For each public bath tub or shower bath	1 25
For each public toilet	1 25
For each public urinal	50
4. For restaurants, eating houses or public dining room:	
For each unit seating capacity	10
For each toilet or urinal	1 00
5. For public garages and service stations with not more than six automobiles	3 00
For each additional automobile	25
For each toilet or urinal	1 00
6. For barber shops, not more than two chairs	2 00
For each additional chair	50
For each bath tub or shower bath	1 00
7. For banks, professional offices, billiard parlors, fraternal halls, club-rooms, churches, plumbing shops, and shops and stores not otherwise listed	2 00
8. For drug stores, dental offices and photograph galleries	3 00
9. For bottling works, creameries, slaughter houses and laundries	5 00
10. For blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, warehouses, grocery stores, butcher shops and large stores	3 00
11. Theaters:	
Base rate	2 00
For each toilet or urinal	1 00
12. For soda fountains, ice cream parlors or soft drink establishments, either alone or in connection with other business	3 00
13. For office buildings:	
For each office with running water	75
For each toilet or urinal	1 00
14. For public drinking fountain	1 50
15. For sprinkling or irrigation of lawns, gardens, shrubbery, etc., for each square yard actually irrigated	005
16. For building work:	
For mortar and to dampen 1000 bricks	20
For cement work, per barrel	15
For plastering, per 100 square yards	50
17. For steam boilers, according to size	2 00 to 5 00
18. For barns, including two horses or cows	25
For each additional horse or cow	15
19. For all users not specified above the meter rates are to be charged.	

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Meters may be installed upon any service at the option of the consumer or the utility. When placed at the option of the consumer, a deposit of $15 may be collected, returnable in water at the rate of half the water bill each month until the entire amount has been returned.

Monthly Meter Rates.

From 0 to 500 cubic feet, per 100 cubic feet	$0 30
From 500 to 1000 cubic feet, per 100 cubic feet	25
From 1000 to 5000 cubic feet, per 100 cubic feet	20
All in excess of 5000 cubic feet, per 100 cubic feet	10

Monthly Minimum Meter Charge.

⅝-inch meter	$1 50
¾-inch meter	2 00
1 -inch meter	3 00
1½-inch meter	4 00
2 -inch meter	5 50
3 -inch meter	8 00
4 -inch meter	12 00
6 -inch meter	15 00

It is hereby further ordered, that Camarillo Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this tenth day of August, 1922.

DECISION No. 10831.

IN THE MATTER OF THE APPLICATION OF CHILENO VALLEY TELEPHONE COMPANY FOR PERMISSION TO INCREASE ITS CHARGES FOR SERVICE.

Application No. 7570.

Decided August 10, 1922.

RATES—TELEPHONE UTILITY—COMMISSION ON TOLLS AND SWITCHING CHARGES—DISCRIMINATION.—Request of applicant to be allowed to charge to each subscriber a commission of 10 per cent for collection of tolls and switching charges due for service rendered by The Pacific Telephone and Telegraph Company, denied, the Commission holding that this would result in an increase without due process of law, and also in discrimination.

Chas. F. Fury, for Applicant.

B. J. Patocchi and *Rasmus Johnson, in propria persona,* Protestants.

BY THE COMMISSION.

OPINION.

The applicant, Chileno Valley Telephone Company, hereinafter referred to as the company, owns and operates a system of farmer lines in and near Chileno Valley and also along Spring Hill road, which

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territory lies west of Petaluma, Sonoma County, California. The company does not operate a central exchange, but provides and maintains its main or connecting lines over the various public highways and connects its main lines at the Petaluma city limits with connecting lines which are provided by The Pacific Telephone and Telegraph Company for local exchange and long distance service through the latter company's exchange.

Applicant's subscribers or patrons provide their own telephones and the necessary drops or branch lines from their premises to the various points on the public highway where they connect with the main lines owned by the company.

For the service which The Pacific Telephone and Telegraph Company furnishes, the company collects from each of its patrons and pays to The Pacific Telephone and Telegraph Company the rates established by that company for farmer line stations, and for such long distance messages as may be charged to these stations. In addition to The Pacific Telephone and Telegraph Company's rates, the company has established another rate which it charges its patrons for that particular service which it renders. This rate has been six dollars ($6) per year in advance. Applicant now asks permission to increase this to the sum of ten dollars ($10) per year.

There was filed, as part of the application, a financial statement of the company, a balance sheet, as of January 1, 1922, and an income and a profit and loss statement for the year 1921. No inventory or appraisal of the property was submitted, the company referring to the cost of its property as shown by its books. Prior to the hearing, however, an appraisal was made by an assistant engineer of the Commission with the help of applicant's representatives.

A public hearing was held before Examiner Westover in Petaluma, May 24, 1922, at which time several patrons appeared and made complaint as to the quality of the service rendered. Applicant's testimony introduced at the hearing merely confirmed the facts as to the financial operations of the company which had previously been set out in the exhibits attached to the application.

Applicant's income statement for the year 1921 shows receipts of $874.21 and disbursements of $1,231.60. Both these amounts include the switching and toll charges collected by it from its subscribers for service rendered by The Pacific Telephone and Telegraph Company and paid by it to that company. Eliminating these items, the amount shown as operating revenue is $351.13, and the expense for repairs and taxes (but not for depreciation) is $723.94. A charge has been made for depreciation of $117.07, in addition to the other disbursements.

The entire work of maintaining the plant has been done during the last two years by an experienced telephone man who also does similar

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work for other small organizations in the vicinity. His bill of $642.80 for the year 1921 represented all charges for repairs as reported by the company, as he furnished his own material, additional help when necessary, and transportation. The company charged $400 of this total amount as repairs and renewals covered by the depreciation reserve, and the balance, $242.80, to ordinary repairs. An analysis of this bill, made by the Commission's assistant engineer, showed that many new anchors had been placed in order to strengthen the line and also that additional wire had been strung. It was estimated that the proper amount to be charged to maintenance should have been $266.91, which appears to be reasonable.

The property of the applicant was valued by the Commission's engineering department at $3,982 on an historical basis as of March 1, 1922. This was based on the known costs of construction elsewhere at the time when the lines were constructed, as the applicant had no detail records of the original cost of its plant. It was further estimated that the amount of accruing depreciation is $130 per annum.

Using as maintenance expense the amount estimated by the Commission's assistant engineer, and allowing for a growth in number of subscribers' stations from 58 to 60, a comparison of the income and expenses under present and proposed rates is as follows:

	Coming year	
	Estimate under present rates	Estimate under proposed rates
Subscribers' station revenue	$360 00	$600 00
Salaries, general	$60 00	$60 00
Incidental expense	2 50	2 50
Maintenance	266 91	266 91
Depreciation	130 00	130 00
Taxes	19 80	33 00
Total expenses	$479 21	$492 41
Deficit	$119 21	
Net revenue		$107 59

It will be seen that the present rates are not sufficient to provide for maintenance, operation, and depreciation. It will be further seen that the proposed rate should provide a net revenue of $107.59, or a return of 2.7 per cent on the historical reproduction cost of the property.

The company also asked that it be allowed to charge to each subscriber a commission of 10 per cent for collection of tolls and switching charges due for service rendered by The Pacific Telephone and Telegraph Company. This would result in an increase to the subscriber, without due process of law, in the rates for toll service of The Pacific

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Telephone and Telegraph Company, and would also produce discrimination inasmuch as the charges for calls originating at the telephones of subscribers of the company would be greater than the charges for similar calls between the same stations in other cases in which the calls might be placed in the opposite direction. Permission to make this charge must therefore be denied.

Under the application of the farmer line rate of The Pacific Telephone and Telegraph Company a discount of 10 per cent on the charge for exchange service is allowed if the bill is paid during the first month of the year. It has been the company's custom to pay to The Pacific Telephone and Telegraph Company during the month of January of each year the entire amount due for service for its patrons, thus being allowed 10 per cent discount. It has also allowed to its own patrons the same discount in connection with this part of their total charge for service, irrespective of the date on which they made payment to it. It should charge the full amount of The Pacific Telephone and Telegraph Company's farmer line rate to all subscribers who do not make payment during the first month of the year.

Complaint as to service is, that there are periods of several days at a time after a storm when no service is available, and that at times the lines are in use so constantly that there is long delay in securing of the lines. It appears that much of this trouble is due to the condition of the privately owned branch lines and instruments, which are not properly maintained, and to the fact that of the five circuits in use, two have thirteen subscribers each and two have twelve subscribers each connected to them. This number is in excess of the number usually allowed on such lines, and the service would undoubtedly be improved if the number were reduced. More careful attention to the maintenance of facilities owned by the individual subscribers will also improve the service. The Commission will not at this time require any modification of the conditions under which service is being rendered because the present financial condition of applicant will not permit.

ORDER.

Chileno Valley Telephone Company having filed with the Commission an application for an increase of rates, a public hearing having been held, the matter being submitted and ready for a decision;

It is hereby ordered, that Chileno Valley Telephone Company be and it is hereby authorized to publish, file with the Railroad Commission, and make effective, on and after thirty (30) days from the date of this order, the following rate for service:

Farmer Line Service—Ten dollars ($10) per annum plus the farmer line rate of The Pacific Telephone and Telegraph Company at its Petaluma exchange.

Dated at San Francisco, California, this tenth day of August, 1922.

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DECISION No. 10832.

IN THE MATTER OF THE APPLICATION OF WESTERN UNION TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER PERMITTING SAID CORPORATION TO CLOSE ITS TELEGRAPH OFFICE AT SUTTER CREEK, CALIFORNIA, AS OF MARCH 15, 1922.

Application No. 7600.

Decided August 10, 1922.

ABANDONMENT—TELEGRAPH UTILITY—UNPROFITABLE UNIT—PUBLIC INTEREST.—The Commission held that an individual office, as a unit of a comprehensive system, which as a whole is profitable to the utility, should not be discontinued, even though such unit, taken separately, may be unprofitable.

A. H. May, for Applicant.

C. E. Richards, for Board of Trustees of Sutter Creek.

BY THE COMMISSION.

OPINION.

This is an application of Western Union Telegraph Company filed under the provisions of General Order No. 48 of the Railroad Commission seeking the authorization of the Commission to close its telegraph office located in the town of Sutter Creek, California. A public hearing was held in Sutter Creek before Examiner Westover.

In its application petitioner sets forth as its reasons for desiring to close its office in Sutter Creek that its receipts at this office for the year 1921 averaged $70.28 per month while operating expenses averaged $38 per month, exclusive of taxes at 5½ per cent of gross receipts, maintenance of equipment, stationery, supervision and other incidental expenses; that the prospects for an increase in its business are poor, that its agent has given notice of his intention to resign and that petitioner is unable to secure another agent to take his place without increasing the present basis of compensation.

Petitioner testified at the hearing that it now maintains a telephone circuit between Sutter Creek and Jackson for the purpose of transmitting telegraph messages to and from the latter town and that it is its intention, if permitted to close the Sutter Creek office, to move the office to Jackson and thereafter handle its Sutter Creek business by telephone over this telephone line. It represents as its reason for desiring to make this change that Jackson is a center of extensive mining operations, making more extensive use of telegraph service than does Sutter Creek and that a saving in its operating expenses can be effected by making the proposed change. It represents also that the closing of this office and the subsequent handling of its business by telephone will not detrimentally affect the service and that no change in its present rates will result.

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The closing of this office is opposed by the citizens of Sutter Creek on the alleged grounds that the service if handled by telephone through a distant office will not be as satisfactory as the present Morse operated service; that one of the large mines of this district, which for a considerable time has been closed down, is preparing to resume operation on an extensive scale and that its operation will increase the use of telegraph service if the Sutter Creek office is continued in operation as at present; that the town of Plymouth, which now is dependent upon Sutter Creek for its Western Union service and which makes extensive use of the same, would be deprived of the greater convenience now offered by the Sutter Creek service if the office were removed to Jackson and that the general business interests of Sutter Creek would suffer if the present office were closed.

At the hearing, petitioner offered as its Exhibit No. 1, a statement of receipts and expenses for Sutter Creek, including its Plymouth business, for the period January, 1921, to March, 1922, inclusive, showing total net receipts of $521.59. This figure includes the total business handled by the Sutter Creek office, including interstate business, but it does not indicate that the office is operated at a loss. With reference to the resignation of petitioner's agent at Sutter Creek and to the necessity of increasing the present basis of compensation to secure another agent, it appears that the present agent will remain if the office is not removed. It appears also that the present office in Sutter Creek is open for business from 7 a.m. to 9.30 p.m. on week days, while the present hours of the Jackson office are from 8 a.m. to 6 p.m. Subsequent to the hearing, petitioner submitted a further statement showing the amount of its Plymouth business handled by Sutter Creek and showing also the overhead charges apportioned to Sutter Creek, based on which it would appear that this office is being maintained at a loss. The Commission has previously declared that an individual office, as a unit of a comprehensive system, which as a whole is profitable to the utility, should not be discontinued even though such unit, taken separately, may be unprofitable, if public interest requires its continuance. In this case we are not convinced that the office is maintained at a loss and it appears that public convenience and necessity require its continuance.

ORDER.

Western Union Telegraph Company having applied to the Railroad Commission for an order permitting it to close its telegraph office at Sutter Creek, a public hearing having been held and it appearing to the Commission, as set forth in the preceding opinion, that the application should be denied;

It is hereby ordered, that the application herein be and it is hereby denied.

Dated at San Francisco, California, this tenth day of August, 1922.

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DECISION No. 10833.

IN THE MATTER OF THE APPLICATION OF COMPTON WATER AND LIGHTING COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 7870.

Decided August 10, 1922.

J. Lee Shepard, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Compton Water and Lighting Company asks permission to issue and sell, at not less than par, 388 shares of its capital stock, of the par value of $50 each, for the purpose of financing the cost of additions and betterments to its plant and properties.

A public hearing was held before Examiner Williams in Compton.

The petition shows that applicant was incorporated on or about December 7, 1903, and is at present supplying water for domestic and irrigation purposes to about 700 consumers in and about Compton, Los Angeles County. It reports its revenues and expenses for the years ending December 31 as follows:

Income account	1919	1920	1921
Operating revenues	$4,757 73	$5,338 62	$7,394 27
Operating expenses	3,763 48	4,363 60	6,284 54
Net operating revenues	$994 25	$975 02	$1,109 73
Nonoperating revenues		30 22	
Gross corporate income	$994 25	$1,005 24	$1,109 73
Interest deductions	70 41		149 76
Profit for year	$923 84	$1,005 24	$959 97

The company was organized with an authorized capital stock of $25,000, divided into 500 shares of the par value of $50 each. Of this amount, 112 shares of the aggregate par value of $5,600 are at present outstanding. This application involves the issue and sale of the remaining authorized but unissued stock.

The record shows that during the year 1921 applicant expended $27,499.66 for additions to its fixed capital, as follows:

Pumping equipment	$2,778 55
Distribution mains and canals	19,301 07
Services	3,021 72
Meters and measuring devices	1,134 41
Wells	913 91
General equipment	350 00
Total	$27,499 66

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It appears, from testimony herein, that these additions were financed with borrowed moneys and through surplus earnings. As of December 31, 1921, the company reported its outstanding indebtedness as $23,398.89, consisting of a $5,000 secured note payable August 22, 1926, $2,650 of unsecured notes and open accounts of $15,748.89. As of the same date the company reported reserve for accrued depreciation of $6,178.42 and corporate surplus unappropriated of $8,245.23.

The company now proposes to use the proceeds from the sale of its stock to pay its outstanding open accounts and such of its notes as are now due. The remainder of the proceeds will be expended for extensions, additions and betterments. J. Lee Shepard, applicant's president, testified that it is proposed to expend $5,600 in the immediate future for capital additions consisting, in general, of a new pumping plant, 2000 feet of six-inch wood pipe and a steel tank of a capacity of from 40,000 to 60,000 gallons.

ORDER.

Compton Water and Lighting Company having applied to the Railroad Commission for an order authorizing the issue and sale of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Compton Water and Lighting Company be and it is hereby authorized to issue and sell, at not less than par, 388 shares ($19,400) of its capital stock, and to use the proceeds to pay, in part, its outstanding indebtedness, and to finance, in part, the cost of the additions, extensions and betterments referred to in this application and in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted shall apply only to such stock as may be issued and sold on or before December 31, 1922.

Dated at San Francisco, California, this tenth day of August, 1922.

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DECISION No. 10834.

IN THE MATTER OF THE APPLICATION OF EAST HIGHLANDS DOMESTIC WATER COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 7976.

Decided August 10, 1922.

Farrand and Slosson, by *Leonard B. Slosson*, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Highland upon the above entitled application for certificate of public convenience and necessity to operate a water system in and about East Highlands, of which hearing proper public notice was given and all interested parties afforded an opportunity to appear and be heard.

It appears from the testimony that water service at East Highlands was poor and the supply inadequate, whereupon East Highlands Orange Company arranged to acquire the existing system for the purpose of providing a more adequate and certain supply of water to the people in and about East Highlands, and especially those employed by it. For that purpose, it caused the incorporation of applicant, with an authorized capital of $50,000, and applied to the Commission, by Application No. 7588, for authority to acquire the property from Plunge Creek Mutual Water Company, a mutual organization, and to issue $35,000 of its capital stock in payment for it, which application will be granted. No other public utility serves water in the vicinity, and a population reaching about 575 during the fruit packing season is dependent upon the system for water. The system consists of wells, pumping plant, storage facilities, and distribution mains, by means of which water is served through 100 metered connections and one unmetered connection.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby certifies that public convenience and necessity require and will require that East Highlands Domestic Water Company acquire and operate a water system for the purpose of supplying water for domestic purposes and for use in case of fire in and about East Highlands, San Bernardino County, California.

It is hereby ordered, that said East Highlands Domestic Water Company be and it is hereby directed to file with this Commission, within twenty days from the date hereof, its schedule of rates to be charged for

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water service, and within thirty days from date hereof to file with the Commission its rules and regulations governing its service and relations with its consumers, such rules and regulations to become effective upon acceptance by the Commission.

Dated at San Francisco, California, this tenth day of August, 1922.

DECISION No. 10839.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC ROAD AT GRADE ACROSS THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AT THE LINE BETWEEN SECTIONS FOURTEEN AND TWENTY-THREE, TOWNSHIP ONE SOUTH, RANGE SIX EAST, MOUNT DIABLO BASE AND MERIDIAN, ABOUT ONE MILE NORTH OF LATHROP, SAN JOAQUIN COUNTY.

Application No. 6633.

Decided August 10, 1922.

GRADE CROSSINGS—PUBLIC HAZARD—PUBLIC DUTY.—Every grade crossing is declared to constitute a very real public hazard, and the Commission holds it is its duty to decline to authorize the installation of any public grade crossings that are not clearly necessary for public convenience and necessity.

R. C. Pardoe, for County of San Joaquin.

Elmer Westlake, for Southern Pacific Company.

W. C. Foss, in propria persona.

MARTIN, *Commissioner.*

OPINION ON ORDER FOR REHEARING ON PROPOSED MODIFICATION OF PRIOR ORDER.

The above entitled proceeding originally came before the Commission in the form of an application for permission to construct the L. J. Squires Road No. 461 at grade across the tracks of Southern Pacific Company, on the southerly line of Section 14, T. 1 S., R. 6 E., M. D. B. and M., a little over one mile north of Lathrop.

In this original application the following statement was made:

(7) That if this application be granted, the board of supervisors of San Joaquin County is willing that the first highway crossing located about one-quarter of a mile north of the crossing herein requested, be abandoned.

In accordance with the usual procedure in such cases the Commission addressed a letter to Southern Pacific Company to ascertain whether the railroad would agree to or oppose the granting of this application

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and in answer to this inquiry the railroad wrote a letter containing the following statement:

> Southern Pacific Company offers no objection to permitting county of San Joaquin to construct highway crossing at grade over our right of way and tracks in vicinity of Lathrop, the location, as we understand it, being shown within red-inked lines on map hereto attached; this with the understanding that the county will assume all expense of constructing and paving the new crossing and installation of any necessary protective device, we thereafter to maintain and operate such protective device and bear the cost of maintaining the crossing between the rails of main track and for a distance of not more than two feet outside thereof.
>
> This approval is also given with the understanding that county will legally close and cause to be abandoned for all public purposes except railroad use by this company the existing crossing shown within yellow-inked lines on map.

The map attached to this letter indicated in red-inked lines the location of the L. J. Squires Road No. 461, and in yellow-inked lines the location of the first road to the north, sometimes known as the Meyers Road, which is actually one-half mile instead of one-quarter mile north of the L. J. Squires Road No. 461, as indicated in the application.

In the meantime the Commission's engineering department made an investigation of the conditions at the proposed crossing and recommended that the application be granted. Thereupon, in accordance with the usual procedure, the Commission made an *ex parte* order (Decision No. 8915), dated May 2, 1921, in which permission was granted the county of San Joaquin to construct this road at grade across the tracks of Southern Pacific Company subject to certain conditions among which was the following:

> (5) The existing public crossing located one-half mile north of the crossing herein authorized shall be closed.

Some months later informal requests were made to the Commission by certain interested citizens for a modification of this decision by eliminating the above quoted condition, whereupon the Commission ordered a hearing on the proposed modification of prior order in this proceeding, which was held at Stockton on July 24, 1922.

It appears that the crossing of the L. J. Squires Road No. 461 has actually been constructed at a cost to the county of $896.14, but that the Meyers crossing, one-half mile to the north, has not been closed, as required by the order.

The Southern Pacific's railroad in this location is a high-speed, double-track, main line running northerly and southerly between Lathrop and Stockton, over which a large volume of railroad traffic moves. Approximately one-half mile west of the railroad is located a northerly and southerly paved highway known as the Mossdale highway and the principal purpose of crossings over the railroad in this vicinity is to give access to this highway from the territory east of the track. A few hundred feet east of the track there is a north and south dirt road

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known as the Peter Alix road which extends northward from Lathrop to French Camp. In addition to the newly constructed L. J. Squires crossing and the old so-called Meyers crossing there is a crossing of the J X road one-half mile north of the Meyers crossing and there is another county road crossing one mile south of the L. J. Squires crossing.

At the hearing the county contended that although it was willing that the Meyers crossing be closed, this road was not a public road, as it never had been dedicated or accepted by the county, and, therefore, the county did not have the power to order its abandonment. There seems to be, however, some question as to the merit of this contention, as it is evident that the public has enjoyed uninterrupted use and travel of this road for many years.

The closing of this road would result in some inconvenience to a few of the residents and property owners in this vicinity, and it was claimed that the location of the old Meyers road was a more satisfactory location than the new L. J. Squires road because of the hazard of flood. There have been two floods in the past thirteen years, caused by the breaking of levees during periods of high water, the last of these floods having occurred some eleven years ago.

It was testified that there were about twelve families on the easterly side of the railroad who are directly interested in and benefited by the Meyers crossing, but it appears that all of these families actually do have an outlet either to the north or to the south, by means of the Peter Alix road and the crossings on either the north line or the south line of section 14 to the highway and that the principal benefit that they receive from the Meyers crossing is to enable them to use an additional half-mile of paved road in lieu of an equivalent distance of relatively poor dirt road.

The physical conditions surrounding the locations at either the Meyers crossing or the L. J. Squires crossing are practically the same in so far as public safety is concerned. The view is open and unobstructed at both of the crossings and the track is about six feet above the adjacent natural ground surface, permitting equal grades of approach in either location. It thus appears that, so far as the public safety is concerned, there is little choice as to which of the crossings is to be permitted if only one. On the other hand, every grade crossing constitutes a very real public hazard and it is the duty of the Commission to decline to authorize the installation of any public grade crossings that are not clearly necessary for public convenience and necessity.

In view of the location of existing roads in this vicinity and considering the sparsity of population, it does not appear that public necessity and convenience require three crossings within a distance of one mile in this vicinity, but since the hazard of accident would be equal at either

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of the crossings in question it seems proper that the local authorities should, in this instance, be permitted to select whichever location for the crossing they believe will best serve the local interests, and it must be assumed that the board of supervisors is the best judge of this local demand.

While it is realized that an inconvenience might accrue to certain individuals should either of the two crossings in question be closed, the natural sympathy that is felt for these individuals must not be allowed to stand in the way of adequately protecting, as far as it is possible to do so, the safety of the entire public. Under these circumstances it appears that the prior order of the Commission in this matter is right and proper, under the terms of which the board of supervisors have the choice of maintaining the old Meyers crossing or of maintaining the new L. J. Squires crossing, as it elects, but not both of them; if the county elects to maintain the new L. J. Squires crossing it is its duty, under the terms of the order by which this crossing was authorized, to abandon the Meyers crossing to public use and travel, in so far as the county of San Joaquin has power so to do. Whether or not this Meyers crossing shall continue to be maintained as a private crossing is a subject which will then be a matter of private agreement between the railroad company and the private interests to be accommodated.

The following form of order is submitted:

ORDER.

Proceedings in the above entitled matter having been reopened on the Commission's own motion, a public hearing having been held, the Commission being apprised of the facts and the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the establishment and maintenance of a public crossing at grade across the tracks of Southern Pacific Company at a point on the south line of section 14, T. 1 S., R. 6 E., M. D. B. and M., or at a point one-half mile northerly therefrom, but not at both of these locations; therefore,

It is hereby ordered, that the proceeding instituted for the proposed modification of the prior order herein be and the same is hereby dismissed and that said prior order (Decision No. 8915) and all conditions thereof shall be and continue in full force and effect without modification.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of August, 1922.

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DECISION No. 10840.

IN THE MATTER OF THE APPLICATION OF BAY TRANSPORT COMPANY, A CORPORATION, FOR A PERMIT AUTHORIZING IT TO ISSUE SHARES OF ITS CAPITAL STOCK.

Application No. 7276.

Decided August 10, 1922.

T. T. C. Gregory, for Applicant.

MARTIN, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

Bay Transport Company, in its third supplemental petition filed in the above entitled matter on July 28, 1922, asks for permission to issue, at par, $31,000 of its capital stock for the purpose of reimbursing its treasury on account of earnings used to acquire property and to pay indebtedness.

By Decision No. 9812, dated November 26, 1921, the Commission authorized applicant to issue not exceeding $77,500 of common stock and to assume the payment of not exceeding $207,562.93 of indebtedness, all in payment for certain steamers, launches and tug boats. To complete the transaction, the company found it necessary to issue $76,000 of stock and to assume the payment of indebtedness aggregating $201,141.02. Thereafter, pursuant to supplemental orders in this proceeding, applicant issued $93,000 additional of stock to reimburse its treasury for surplus earnings used prior to April 30, 1922, to acquire properties and to pay indebtedness.

It is now reported that from April 30, 1922, to June 30, 1922, the company's net earnings amounted to approximately $31,000. Of this amount, it appears that $18,663.54 was used to pay indebtedness, thereby increasing the stockholders' equity, and $12,563.61 was used to acquire properties and assets. Because its surplus earnings were used for these purposes, applicant now asks permission to issue $31,000 of stock.

I submit the following form of order:

THIRD SUPPLEMENTAL ORDER.

Bay Transport Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Bay Transport Company be and it is hereby authorized to issue, at par, on or before September 30, 1922, an additional $31,000 of its common capital stock to reimburse its treasury on

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account of surplus earnings used prior to June 30, 1922, to acquire properties and to pay indebtedness.

Provided, that Bay Transport Company keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the order in Decision No. 9812, dated November 26, 1921, as amended, shall remain in full force and effect except as modified by this third supplemental order.

The foregoing second supplemental opinion and third supplemental order are hereby approved and ordered filed as the second supplemental opinion and third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of August, 1922.

DECISION No. 10851.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE DEPARTMENT OF PUBLIC WORKS, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF AN OVERHEAD STATE HIGHWAY CROSSING OVER THE TRACKS OF THE SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, A CORPORATION, NEAR DENVERTON, SOLANO COUNTY, CALIFORNIA.

Application No. 7812.

Decided August 11, 1922.

George R. Winslow, for Applicant.

Jesse H. Steinhart, for San Francisco-Sacramento Railroad Company.

MARTIN, *Commissioner.*

OPINION.

In this application the people of the State of California, through the Department of Public Works, hereinafter called Highway Commission, ask for an order authorizing the construction of a state highway over the track of San Francisco-Sacramento Railroad Company, hereinafter referred to as railroad, and apportioning the cost thereof. The proposed crossing is located as shown on applicant's Exhibit No. 1, about 500 feet north of the east and west center line of section 9, T. 4 N., R. 1 E., M. D. B. and M., about 7/8 of a mile south of the nearest public crossing to the north, hereinafter called Solano City crossing, and about 1¾ miles north of the nearest public crossing to the south, hereinafter called Garfield crossing.

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A public hearing was held in San Francisco May 31, 1922. At this hearing it was arranged that the engineering department of the Commission would make an inspection in connection with this application; that a report would be made to the Commission and furnished to the parties and they would have an opportunity to call to the Commission's attention anything in the report to which they did not agree. This report has been made, furnished to the parties and their objections are of record.

The proposed crossing is located on the state highway now being constructed (including concrete paving) from Suisun to Rio Vista, which makes use of existing county roads for nearly all of the way. Where the crossing is proposed, however, the state highway is new, there never having been any road at this point. This new stretch of highway extends in a southeasterly direction from a point approximately at the center of section 5 to the southeast corner of section 15, both sections in the township and range above mentioned. This diagonal location, approximately southeast in direction, is 1½ miles shorter, as compared with existing county road routes between Denverton and Rio Vista, Denverton being located between Suisun and the commencement of the new diagonal route.

One of the existing county roads leads from the above mentioned point near the center of section 5, directly east, crossing the railroad at the Solano City crossing near the center of section 4; continues along the center line of section 3; turns south along the west line of section 2; runs east along the south line of sections 2 and 1; turns south along the east line of section 12; thence runs east along the south lines of sections 7 and 8, R. 2 E., thence south along the west line of section 16; thence east to Rio Vista. This road is a fair gravel road, probably meeting the needs of the existing traffic, as will be brought out later.

The other county road, starting from the same point as the new highway and the above described county road mentioned, runs south along the north and south center line of sections 5, 8 and 17, and thence turns east to Rio Vista, meeting the railway at the Garfield crossing in approximately one-quarter mile, the proposed new highway at the southeast corner of section 15, and the other county road at the southeast corner of section 17, R. 2 E. This second county road on the north and south portion is graveled, but on the east and west part is simply a dirt road.

A traffic check at the Solano City crossing taken on what is probably an average weekday, shows between 8 a.m. and 8 p.m. only thirty-four vehicle movements, about one-fourth of which crossed back and forth, indicating local travel. At the other county road crossing, the Garfield crossing, there is even less travel.

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Witness for the Highway Commission stated that the cost of grade separation as proposed for a single railroad track, as at present, would be approximately $26,000, this sum covering the structure and the earth-filled approaches.

The railroad did not object to the crossing, but did state that an expenditure toward the separation of grades would be a burdensome matter.

Since there appears no objection to the installation of a structure separating the grades of the highway and the railroad at the point proposed in the application, there is apparently but one issue necessary of determination, and this is the division of cost.

Had the Highway Commission chosen to improve one of the existing county roads and separated the railroad and highway grades at either existing point of crossing it is probable that the Commission would have assessed one-half of the cost of grade separation to the railroad and in either location the cost of grade separation would have been considerably more than at the proposed point of crossing. This seems evident as the country is practically flat at the existing crossings, whereas there is already a difference of grade of some six feet at the proposed crossing. The record indicates that neither of the existing crossings should be abolished, as they serve local needs. The record also indicates that the last legislature made the road from Rio Vista to Lodi a state highway, but did not provide construction funds; that when such funds are provided and the road is paved, through traffic from Suisun to Rio Vista and Lodi will undoubtedly be increased and it is this through traffic that has apparently justified the Highway Commission in proposing to make grade separation at this time.

Inevitably the railroad must face grade separation at some time on this new state highway because of this through traffic which will develop in the future. The Highway Commission has saved the cost of 1½ miles of paving through the selection of the diagonal route over either of the existing routes and it has also located the crossing where a grade separation would probably be least expensive.

Under the circumstances it seems equitable that the railroad should pay some part of the cost of grade separation. It does not seem, in view of the relatively light traffic, that it should bear one-half of this cost, as would seem fair if this new crossing and route were simply a diversion of heavy traffic from an existing crossing, nor does it seem fair that it should pay any of the cost of paving on the long earth approach fills. On the other hand, this situation has some of the elements of diversion and as such it does not appear fair that the Highway Commission should bear all of the cost. It appears that an equitable division of cost would be one-fourth to the railroad and three-fourths to the applicant, the cost

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as here used meaning the cost of the structure and the grading for the approach fills.

The engineering department draws attention to the fact that on Exhibit A, attached to the application, the clearance between the top of the rail and the underpart of the bridge under the tracks is shown as twenty-two feet and draws attention to the fact that the Commission's General Order No. 64 provides a clearance between the top of the rail and the trolley of twenty-two feet and that this clearance should be increased probably one foot, as the railroad is operated by an overhead trolley with catenary suspension.

The following form of order is recommended:

ORDER.

The people of the State of California, on relation of the Department of Public Works, having applied to the Commission for an order authorizing the construction of an overhead crossing over the tracks of San Francisco - Sacramento Railroad Company near Denverton, Solano County, substantially in accordance with the plan marked "Exhibit A" accompanying said application and dividing the cost thereof, a public hearing having been held, the matter having been submitted and being ready for decision:

It is hereby found as a fact that public convenience and necessity justify the construction of said overhead crossing; therefore,

It is hereby ordered, that the people of the State of California, on relation of the Department of Public Works, be and they are hereby authorized to construct an overhead crossing over the tracks of San Francisco - Sacramento Railroad Company near Denverton, Solano County, substantially in accordance with the plan marked "Exhibit A" accompanying said application, subject to the following conditions, and not otherwise:

1. All clearances shall comply with the Commission's General Orders Nos. 26 and 64.

2. Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

3. The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

It is hereby further ordered, that the expense of constructing the earth fills on the approaches for the structure and the said structure for said crossing shall be divided as follows: Three-fourths of said cost shall be borne by applicant and one-fourth of said cost shall be borne by San Francisco-Sacramento Railroad Company, that the expense of

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moving its poles and wires shall be borne by San Francisco-Sacramento Railroad Company, and that all other costs, including paving, shall be borne by applicant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of August, 1922.

DECISION No. 10852.

IN THE MATTER OF THE APPLICATION OF HARBOR CITY WATER COMPANY FOR AN INCREASE IN WATER RATES.

Application No. 7876.

Decided August 11, 1922.

RATES—WATER UTILITY—FULL RETURN.—It is held that as the water system in the instant case covers a large, sparsely settled territory, a rate sufficiently high to give a full return on the investment would unduly burden present consumers.

Walter E. Burke, for Applicant.

Louis Jackson, for Citizens of Harbor City.

E. O'Connell, in propria persona, and for other consumers.

BY THE COMMISSION.

OPINION.

Harbor City Water Company, applicant herein, asks authority to increase the rates for supplying domestic and irrigation water in and in the vicinity of Harbor City, Los Angeles County, California. The application alleges in effect that the present schedule of rates is not sufficient to pay operating expense, depreciation and a reasonable return upon a fair value of property devoted to public use.

A public hearing was held in the matter before Examiner Williams at Los Angeles, of which all consumers were notified and given an opportunity to be present and be heard.

The present schedule of rates was put into effect voluntarily by the predecessor of applicant during the war period to aid in the so-called "war garden" campaign and consumers have enjoyed these rates since that time. The rates follow:

Monthly Meter Rates.

1500 cubic feet or less	$1 00
1500 cubic feet to 2500 cubic feet, per 100 cubic feet	06
All in excess of 2500 cubic feet, per 100 cubic feet	05

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The water supply for this system is pumped from a well into storage reservoirs from which it is distributed to its points of use, serving approximately 250 consumers.

The testimony shows that this system was installed to aid in the sale of real estate and was operated in connection with the land company until April 27, 1922, when its separation from the nonpublic utility land business was authorized by the Railroad Commission in its Decision No. 7307, dated April 27, 1922.

Mr. F. H. Van Hoesen, of the Railroad Commission's engineering staff, submitted a report based upon a field investigation and a study of the records of the company. It included an estimate of the original cost of the useful properties of this utility, compiled by Mr. John Spencer, also of the Commission's engineering force, which shows the original cost of the system to be $75,410, and a replacement annuity, computed by the 6 per cent sinking fund method, of $1,755. A reasonable maintenance and operating expense was estimated at $3,815. No other estimates were submitted nor were the above figures questioned. A careful analysis indicates the estimates are fair, and they will be used for the purposes of this proceeding.

Annual charges based on the foregoing items are as follows:

Return at 8 per cent on $75,410	$6,033 00
Replacement annuity	1,755 00
Maintenance and operating expense	3,815 00
Total	$11,603 00

The revenue from the sale of water in 1921 amounted to $2,592.80 and for the first five months of 1922, to $1,295.66. These figures would seem to indicate that applicant is entitled to an increase in revenue.

The testimony shows, however, that the system covers a large, sparsely settled territory, and a rate sufficiently high to give a full return upon the total investment in the system as outlined above would unduly burden the present consumers. The testimony of applicant is to the effect that a return on the investment is not urged in this proceeding.

The rate schedule set out in the accompanying order is designed to yield the cost of maintaining and operating the system, a proper replacement annuity, and a sum in addition to be available as a return upon the investment.

ORDER.

Harbor City Water Company having made application as entitled above, a public hearing having been held therein and the matter being now submitted for decision:

It is hereby found as a fact that the rates now charged by Harbor City Water Company for water delivered to consumers in and in the vicinity of Harbor City, Los Angeles County, are unjust and unreasonable in so

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far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Harbor City Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for water delivered to its public utility consumers in and in the vicinity of Harbor City, effective for all water delivered subsequent to August 31, 1922, or the meter reading period next preceding that date:

Monthly Minimum Charges.

¾-inch meter	$1 00
1-inch meter	1 25
1½-inch meter	1 75
2-inch meter	2 50
3-inch meter	3 00
4-inch meter	4 00
	5 00

Monthly Charges for Water Consumed.

From 0 to 400 cubic feet, per 100 cubic feet	$0 25
From 400 to 1000 cubic feet, per 100 cubic feet	20
From 1000 to 5000 cubic feet, per 100 cubic feet	15
All over 5000 cubic feet, per 100 cubic feet	06

It is hereby further ordered, that Harbor City Water Company be and it is hereby directed to file with this Commission within thirty (30) days from the date of this order rules and regulations to govern its relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of August, 1922.

DECISION No. 10856.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING RATES TO BE CHARGED BY IT FOR GAS AND ELECTRICITY.

Application No. 6078.

Decided August 11, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9412 in the above entitled matter, this Commission provided with reference to the rates therein established, that upon approval of the Railroad Commission, Schedule No 1 would be subject to increase or decrease on the basis of 2.4 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the price of

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oil, above or below the price of $1.75 per barrel at San Diego; and that Schedule No. 3 would be subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel at San Diego; and,

Whereas, San Diego Consolidated Gas and Electric Company having heretofore filed with this Commission an affidavit that the price paid for oil had been reduced by the total of 35 cents per barrel for Schedule No. 1, and 25 cents per barrel for Schedule No. 3, and the Commission having in consequence, in Decision No. 10777, ordered a reduction of 3 cents per 1000 cubic feet on both schedules; and,

Whereas, San Diego Consolidated Gas and Electric Company now makes affidavit that on August 8, 1922, the price paid for oil at San Diego was reduced to $1.15 per barrel, this being a further reduction of 25 cents and a total reduction of 60 cents per barrel for Schedule No. 1 and a total reduction of 50 cents per barrel for Schedule No. 3 from the base prices on which rates were established in Decision No. 9412;

It is hereby ordered, that the rates set forth in Decision No. 9412, in Application No. 6078, designated as Schedule No. 1, be and they are hereby reduced by 14 cents per 1000 cubic feet and the rates designated as Schedule No. 3 be and they are hereby reduced by 15 cents per 1000 cubic feet, reductions on both schedules to be effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction from rates now in effect, of 6 cents per 1000 cubic feet for Schedule No. 1, and of 7 cents per 1000 cubic feet for Schedule No. 3.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company file with the Commission, on or before September 8, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this eleventh day of August, 1922.

DECISION No. 10858.

GROWERS PACKING AND WAREHOUSING ASSOCIATION, INCORPORATED (A CORPORATION),

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY (A CORPORATION).

Case No. 1732.

Decided August 15, 1922.

GRADE CROSSING—JURISDICTION.—In the case of a public grade crossing of a highway over a railroad track the Commission is held to have, under section 43 (*b*) of the Public Utilities Act, exclusive power and it is its duty to prescribe the manner of operation, maintenance, use and protection of such crossing.

Sapiro and Levy and *Boyd Oliver*, for Complainant.
R. W. Palmer, for Defendant.

BY THE COMMISSION.

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OPINION.

In this proceeding Growers Packing and Warehousing Association, Incorporated, a corporation, complainant herein, alleges that there is a street or roadway, known as Bosch avenue, running in an easterly direction from the town of Geyserville across the tracks of Northwestern Pacific Railroad Company, a corporation, defendant herein, at grade and leading thence to a packing house and warehouse of the complainant; that said Bosch avenue leading to the packing house of the complainant has been in regular, continuous and uninterrupted use by the public for a period of more than twenty years next preceding the first day of March, 1922, and that on or about the fourth day of March, 1922, the defendant closed said Bosch avenue and effectively stopped and cut off any and all possibility of ingress and egress to and from said packing house of complainant across said railroad track by removing the earth from between the rails of said tracks and by excavating and removing the earth which formed the approaches to a grade crossing of said tracks and that by reason of the acts of defendant in closing said grade crossing complainant has been deprived of all means of ingress and egress to its property, except by a road which lies across private property over which complainant has no control and which road may be closed at any time at the option of said owners of said private property. Complainant asks that the Northwestern Pacific Railroad Company be required to reopen and maintain said grade crossing.

Defendant, in answer, denies that Bosch avenue crosses the railroad tracks, right of way or station grounds of defendant, alleging that said Bosch avenue ends at the westerly line of defendant's property in the town of Geyserville. Defendant further denies that said street or roadway has been in regular, continuous or uninterrupted use by the public for a period of more than twenty years, or for any period of time, and denies that it has blocked or obstructed any public crossing or private crossing whatsoever.

Hearings on this matter were held before Examiner Satterwhite at Geyserville on May 5, 1922, and at San Francisco on June 21, 1922.

Considerable testimony was introduced to show that Bosch avenue, sometimes known as Walden avenue, is, and has been for many years, a public road extending at grade across the tracks of Northwestern Pacific Railroad Company.

It appears from this testimony that since 1867 there has been in more or less continuous use a public roadway at approximately the location of Bosch avenue across the property now owned and occupied by the railroad, and the uninterrupted use of this roadway across the tracks of defendant since about 1900 was clearly established. Considering all the testimony on this question the Commission is convinced that there is

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in fact a public highway across the property and tracks of the defendant at this location.

In view of the fact that this is a public grade crossing of a highway over a railroad track it appears that under section 43 (*b*) of the Public Utilities Act the Commission has the exclusive power and it is its duty to prescribe the manner of operation, maintenance, use and protection of this crossing. From the evidence in this proceeding it appears that there is a considerable volume of vehicular traffic at certain seasons of the year over this crossing and that at these same seasons cars are frequently left standing on the yard tracks at Geyserville in such a manner as to seriously obstruct the view of approaching trains.

Under these circumstances one of two forms of relief should be provided: namely, that cars should not be left standing on any track within a distance of 75 feet of this crossing, or if cars are left standing within 75 feet of this crossing that the crossing should be protected for such periods by a human flagman, and since this is a crossing of a public highway which is older than the railroad itself the burden of providing either of the forms of protection indicated should be upon the railroad. The prayer of complainant, therefore, should be granted and the crossing of the public roadway, sometimes known as Bosch avenue, or Walden avenue, should be adequately maintained and protected by the railroad.

ORDER.

It is hereby found as a fact that there is a grade crossing of a public road over the track of Northwestern Pacific Railroad Company in the town of Geyserville, unincorporated, in the county of Sonoma, State of California, at a location approximately 650 feet southeasterly from the intersection of Depot or River street in said town of Geyserville and the track of said Northwestern Pacific Railroad Company; therefore,

It is hereby ordered, that Northwestern Pacific Railroad Company maintain the grade crossing of the public highway sometimes known as Bosch avenue, or Walden avenue, across its track at a location approximately 650 feet southeasterly from the intersection of Depot or River street and the track of Northwestern Pacific Railroad Company in the town of Geyserville in a good and first class condition for the safe and convenient use of the public; said roadway across the tracks shall be maintained at an elevation equal to the top of rail of each track crossed for a width of not less than twenty (20) feet with grades between tracks, or approaching tracks, not exceeding two (2) per cent and shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic, and

It is hereby further ordered, that for the protection of said crossing Northwestern Pacific Railroad Company shall refrain from standing cars on any track within a distance of 75 feet from said crossing, or at

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its option in lieu thereof shall provide a human flagman for the protection of said crossing at such periods as cars are left standing on any track within a distance of 75 feet of said crossing.

The Commission hereby reserves the right to make such further orders relative to the location, construction, operation, maintenance, protection or abolition of said crossing as to it may seem right and proper if in its judgment the public convenience and necessity demand such action.

Dated at San Francisco, California, this fifteenth day of August, 1922.

DECISION No. 10864.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK OF THE PAR VALUE OF EIGHT HUNDRED THOUSAND DOLLARS.

Application No. 5097.

Decided August 15, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 8144, dated September 24, 1920, as amended, authorized San Francisco-Richmond Ferry Company to issue and sell on or before December 31, 1922, $800,000 of stock subject, among others, to the condition that the proceeds be expended only for such purposes as the Railroad Commission may authorize.

Applicant in its written request of August 8 asks permission to use $131 of the proceeds obtained from the sale of stock and now on deposit with the Wells Fargo Nevada National Bank of San Francisco, or a like amount hereafter obtained from the sale of stock, to pay federal capital stock tax and state corporation and license taxes.

The Commission has considered applicant's request and believes that it should be granted, as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 8144, dated September 24, 1920, as amended, be and it is hereby modified so as to permit San Francisco-Richmond Ferry Company to withdraw $131 from the Wells Fargo Nevada National Bank of San Francisco and to use said $131 to pay federal capital stock tax ($23), state corporation tax ($8) and state license tax ($100).

It is hereby further ordered, that the order in Decision No. 8144, dated September 24, 1920, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this fifteenth day of August, 1922.

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DECISION No. 10865.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA AND HAWAIIAN SUGAR REFINING CORPORATION (A CORPORATION) FOR APPROVAL OF A SALE AND AWARD BY THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, OF A WHARF FRANCHISE IN SAID COUNTY OF CONTRA COSTA TO SAID CALIFORNIA AND HAWAIIAN SUGAR REFINING CORPORATION, AND OF ORDINANCE NO. 167, GRANTING THE SAME.

Application No. 8148.

Decided August 15, 1922.

BY THE COMMISSION.

ORDER.

Upon the reading and filing of the application of the California and Hawaiian Sugar Refining Corporation, a corporation, for the approval by this Commission, pursuant to the provisions of section 2906 of the Political Code of the State of California, of the sale and award by the board of supervisors of the county of Contra Costa, State of California, of a wharf franchise to said applicant, and it appearing therefrom to the satisfaction of this Commission that it is in the public interest that said applicant should exercise the rights and privileges conferred by said franchise, and this Commission being of the further opinion that this is a matter in which a public hearing is not required;

It is hereby ordered, that the approval of the Railroad Commission of the State of California be and the same is hereby given for the sale and award by the board of supervisors of the county of Contra Costa, State of California, to the California Hawaiian Sugar Refining Corporation, a corporation, on the 17th day of July, 1922, Ordinance No. 167, of a certain wharf franchise for the construction and maintenance of a wharf on the southerly shore of the Straits of Carquinez, for a period of twenty (20) years from and after the date of the passage and taking effect of said ordinance.

Dated at San Francisco, California, this fifteenth day of August, 1922.

DECISION No. 10868.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA AND HAWAIIAN SUGAR REFINING CORPORATION (A CORPORATION) FOR APPROVAL OF A SALE AND AWARD BY THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, OF A WHARF FRANCHISE IN SAID COUNTY OF CONTRA COSTA TO SAID CALIFORNIA AND HAWAIIAN SUGAR REFINING CORPORATION, AND OF ORDINANCE NO. 166 GRANTING THE SAME.

Application No. 8147.

Decided August 17, 1922.

BY THE COMMISSION.

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ORDER.

Upon the reading and filing of the application of the California and Hawaiian Sugar Refining Corporation, a corporation, for the approval by this Commission, pursuant to the provisions of section 2906 of the Political Code of the State of California, of the sale and award by the board of supervisors of the county of Contra Costa, State of California, of a wharf franchise to said applicant; and it appearing therefrom to the satisfaction of this Commission that it is in the public interest that said applicant should exercise the rights and privileges conferred by said franchise, and this Commission being of the further opinion that this is a matter in which a public hearing is not required;

It is hereby ordered, that the approval of the Railroad Commission of the State of California be and the same is hereby given for the sale and award by the board of supervisors of the county of Contra Costa, State of California, to the California and Hawaiian Sugar Refining Corporation, a corporation, on the 17th day of July, 1922, Ordinance No. 166, of a certain wharf franchise for the construction and maintenance of a wharf on the southerly shore of the Straits of Carquinez, for a period of twenty (20) years from and after the date of the passage and taking effect of said ordinance.

Dated at San Francisco, California, this seventeenth day of August, 1922.

DECISION No. 10869.

IN THE MATTER OF THE APPLICATION OF EAST HIGHLANDS DOMESTIC WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 7588.

Decided August 17, 1922.

Farrand and Slosson, by *L. B. Slosson*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, East Highlands Domestic Water Company asks permission to issue $50,000 (5000 shares) of its capital stock for the purpose of acquiring properties and of providing the cost of extensions, additions and betterments.

A public hearing was held before Examiner Williams in Los Angeles.

The application shows that East Highlands Domestic Water Company was organized on or about December 23, 1919, for the purpose of supplying and distributing water in and about East Highlands, San Bernardino County. By Decision No. 10834, dated August 10, 1922, the Railroad Commission declared that public convenience and necessity requires that applicant acquire, construct and operate a water system for the

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purpose of supplying water for domestic purposes and for use in case of fire in and about East Highlands.

The company asks permission at this time to issue all of its authorized capital stock of $50,000, which is divided into 5000 shares of the par value of $10 each. It proposes to issue three shares to qualify directors, to deliver 3500 shares in full payment of properties located in East Highlands, and to sell 1497 shares, at par, to provide the cost of future capital additions.

The properties to be acquired for $35,000 in stock are described in some detail in the petition and consist, in general, of a well from which 100 miner's inches of water may be pumped, a pumping plant, two reservoirs, one 80 feet by 60 feet by 11½ feet, and the other 40 feet by 40 feet by 8 feet, transmission and distribution lines, laterals, meters, fittings and two small lots. It is reported that this system, which was completed during 1921, actually cost $34,544.46, and that in addition, $133.50 was expended in surveying.

It appears that these properties are at present held by Plunge Creek Mutual Water Company, a mutual company, organized by East Highlands Orange Company for the purpose of giving water service to its employees and to residents on its properties, it being the intention of the latter company to keep the two classes of business separate. Inasmuch as the water business will be of a public utility nature, Plunge Creek Mutual Water Company now proposes to transfer its properties to applicant, who will operate them as a public utility water company. It is thought that in excess of 650 people will be served by this system.

In addition to the 3500 shares of stock to be delivered for properties, applicant asks permission to issue and sell, at par, 1497 shares to provide the cost of extensions, additions and betterments which may be found necessary in the future. As the company is not in a position at this time to advise the Commission as to the specific purposes for which it intends to use the proceeds, the order herein will provide that no moneys obtained from the sale of the 1497 shares of stock may be expended, except as hereafter authorized in a supplemental order or orders.

ORDER.

East Highlands Domestic Water Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein;

It is hereby ordered, that East Highlands Domestic Water Company be and it is hereby authorized to issue, on or before April 30, 1923, $50,000 (5000 shares) of its capital stock.

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The authority herein granted is subject to further conditions as follows:

1. Three shares may be sold at par for cash for the purpose of qualifying directors, and the proceeds used for working capital.

2. Three thousand five hundred shares may be delivered to Plunge Creek Mutual Water Company in payment for the properties referred to in this application.

3. One thousand four hundred seventy shares may be sold for cash at not less than par, provided that the proceeds from such sale be deposited by applicant with a bank or banks and expended only as authorized by the Commission in a supplementanl order or orders.

4. The price at which applicant is herein authorized to acquire properties shall not hereafter be urged before this Commission or any court or public body as a measure of value in fixing rates or for any purpose other than that herein authorized.

5. Applicant shall file a copy of the instrument by which it obtains title to the properties referred to herein within 30 days after its execution.

6. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this seventeenth day of August, 1922.

DECISION No. 10870.

IN THE MATTER OF THE APPLICATION OF CHAS. A. LORAIN FOR PERMISSION TO DISMANTLE TELEPHONE LINE AND DISCONTINUE FURNISHING TELEPHONE SERVICE.

Application No. 7713.

Decided August 17, 1922.

Chas. A. Lorain, in propria persona.
George M. Skinner and *Julia MacDonald*, for Protestants.

BY THE COMMISSION.

OPINION.

Chas. A. Lorain, applicant in this proceeding, owns and operates a telephone line extending from the town of Folsom, Sacramento County, California, in an easterly direction through Green Valley to Rescue post office, El Dorado County, California. The line connects, in the town of Folsom, with the lines of The Pacific Telephone and Telegraph

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Company, for local exchange and long distance service. Applicant pays to The Pacific Telephone and Telegraph Company that company's authorized farmer line rate of $3 per year for service for each subscriber on his line, and, in turn, has been billing his subscribers at the rate of the $1.25 per month each, thus receiving $1 per month net, or $12 per year per subscriber to pay for maintenance, depreciation, and interest on investment. The line now serves 16 subscribers.

Applicant was formerly a resident in the territory served by his telephone line and performed all work necessary in its maintenance in connection with his other duties as mail carrier. He is now a resident of Folsom, and is engaged in other business. He is therefore compelled at present to leave his regular work in order to maintain his line, or to hire all maintenance work to be done by others. The application states that the revenue received is insufficient to pay for this upkeep.

A public hearing was held before Examiner Satterwhite, at Folsom, on May 18, 1922. At this hearing several of applicant's patrons appeared to protest against the abandonment of service. It appears from the evidence, however, that applicant's lines are now operated at a loss and that the protesting patrons are unwilling to pay a rate for service which will enable applicant to continue its maintenance. A tentative offer was made by the patrons to purchase applicant's line, which offer has been accepted and arrangements have been completed for its operation as a farmer line connecting with the Folsom exchange of The Pacific Telephone and Telegraph Company. The president of the organization purchasing the line has since advised the Commission that its further operation as a farmer line is satisfactory and all objections to the granting of applicant's petition are withdrawn.

ORDER.

Chas. A. Lorain, owning and operating a telephone line extending from Folsom, Sacramento County, California, to Rescue, El Dorado County, California, having applied to the Railroad Commission for authority to discontinue service and abandon his line, a public hearing having been held, the Commission being fully apprised, and it appearing that the application should be granted;

It is hereby ordered, that applicant be and he hereby is authorized to discontinue service on his line from Folsom to Rescue, such discontinuance to become and be effective on and after September 1, 1922.

Dated at San Francisco, California, this seventeenth day of Augnst, 1922.

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DECISION No. 10872.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST PREFERRED CAPITAL STOCK OF THE AGGREGATE PAR VALUE OF FIVE MILLION DOLLARS, AND TO USE THE PROCEEDS FROM THE SALE OF SAID PREFERRED CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES DESCRIBED HEREIN.

Application No. 8104.
Decided August 17, 1922.

C. P. Cutten, for Applicant.

ROWELL, *Commissioner.*

OPINION.

In this application Pacific Gas and Electric Company asks permission to issue and sell, at not less than $87.50 per share, 50,000 shares ($5,000,000) of its first preferred 6 per cent capital stock for the purpose of financing, in part, the cost of capital additions.

The company reports that it will need in excess of ten million dollars during the remainder of the year 1922 and during 1923, to pay the cost of acquiring and constructing extensions, additions and betterments to its properties and to the properties of Mount Shasta Power Corporation. It is to provide a portion of this estimated cost that applicant now requests permission to issue and sell $5,000,000 of its stock.

However, it appears that the company is not in a position at this time to advise the Commission as to the specific purposes for which it will use the proceeds obtained from such sale of stock. For this reason it is proposed to place the proceeds from the sale of the stock on deposit with a bank or banks to be withdrawn only for such purposes as the Commission might indicate in subsequent orders.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell $5,000,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, for cash, at not less than $87.50 per share, 50,000 shares ($5,000,000) of its first preferred stock, provided:

1. That applicant deposit the proceeds obtained from the sale of the stock herein authorized with a bank or banks and expend said proceeds

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only for such purposes as the Commission may authorize in subsequent orders; and provided further,

2. That applicant keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of August, 1922.

DECISION No. 10873.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS PREFERRED STOCK OF THE PAR VALUE OF SIX HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 8135.

Decided August 17, 1922.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

San Diego Consolidated Gas and Electric Company asks permission to issue and sell at not less than par $650,000 of its 7 per cent cumulative preferred stock and use the proceeds to pay a commission of not exceeding 3½ per cent in connection with the sale of the stock and to finance, in part, the cost of extensions and additions to its properties and plants.

The company reports that from April 1, 1921, to June 30, 1922, it expended for construction purposes the sum of $2,868,790.62 and estimated its net construction expenditures for the six months ending December 31, 1922, at $1,803,678, making a total of $4,672,468.62. In its Exhibit No. 4 applicant apportions its estimated expenditures as follows:

Gas production	$612,075 00
Gas distribution system	182,433 00
Electric production	521,394 00
Electric distribution system	462,804 00
General purposes	21,104 00
Steam plant	3,868 00
Total	$1,803,678 00

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From the actual and estimated expenditures of $4,672,468.62, the company deducts in its Exhibit No. 3 the proceeds obtained from the sale of stock and bonds and cash from earnings as follows:

Proceeds from sale of bonds, authorized to be issued	$1,987,500 00
Proceeds from sale of stock authorized to be issued	1,430,859 57
Cash from earnings from January 1, 1920, to December 31, 1922	405,857 52
Total	$3,824,217 09

Leaving a balance to be financed of $848,251.53.

It is for the purposes of financing in part the expenditures of $848,251.53 that applicant asks permission to issue and sell $650,000 of its preferred stock.

It is of record that the reported expenditures of $2,868,790.62 to June 30, 1922, include $100,000, which the company agreed to pay for the properties of the United Light, Fuel and Power Company. The Commission, in its Decision No. 10601, dated June 16, 1922, in Application No. 7742, held that $25,000 of the purchase price of the properties must be obtained from sources other than the sale of stock, bonds, notes or other evidences of indebtedness. Quoting from the Commission's decision:

> If the company concludes to pay $100.000 for these properties (United Light, Fuel and Power Company) it will be necessary for it to obtain $25,000 of the purchase price from some source other than through the issue of bonds, stock, notes or other evidences of indebtedness authorized by this Commission. In my opinion, the evidence in this case does not warrant the Commission in making an order authorizing the issue of stock for the purpose of paying $25,000 for the right to conduct an electrical distributing business in the city of Coronado.

The $25,000, therefore, should be deducted from the company's actual or estimated expenditures against which it intends to issue stock or other securities. Deducting the $25,000 from the $848,251.53 leaves a balance of $823,251.53, an amount considerably in excess of the $650,000 of stock which applicant asks permission to issue and sell.

The company proposes to sell its stock at par, but asks permission to expend in payment of commissions in connection with the sale of said stock an amount equivalent to not exceeding 3½ per cent of the par value of the stock sold.

I herewith submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for permission to issue $650,000 of its preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

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It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, at not less than par, $650,000 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds from the sale of the stock an amount equivalent to not more than 3½ per cent of the par value of the stock sold may be expended by applicant in payment of commissions and expenses incurred in connection with the sale of the stock.

2. The remainder of the proceeds from the sale of the stock herein authorized shall be used by applicant to finance, in part, the cost of such extensions, additions and betterments described in this application as may be properly chargeable to capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission.

3. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of August, 1922.

DECISION No. 10874.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR EXCHANGE AND INTERCHANGE SERVICE AT HERNDON, FRESNO COUNTY, CALIFORNIA.

Application No. 7820.

C. J. STEPHENS ET AL.

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION.

Case No. 1719.

Decided August 17, 1922.

F. L. McNally, for Applicant and Defendant.
Louis C. Levy, for Complainants and Protestants.
P. B. Thornton, for Fresno Irrigation District.

BY THE COMMISSION.

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OPINION.

The Pacific Telephone and Telegraph Company, applicant and defendant respectively herein, conducts a general telephone business throughout California, including the territory involved in these proceedings, and elsewhere. Complainants and protestants are residents of Herndon and Fresno and adjacent territory.

In its application The Pacific Telephone and Telegraph Company asks the Commission to make its order granting it a certificate that the present public convenience and necessity require the establishment of a telephone exchange in Herndon and authorizing it to make effective a schedule of rates for local exchange service and long distance toll rates for interchange service. In the compalint of Stephens et al. the Commission is asked to deny the application of The Pacific Telephone and Telegraph Company for authority to establish its proposed local exchange in Herndon and to require it to provide service from its Fresno exchange to complainants. The two matters were accordingly consolidated for hearing and were heard before Examiner Satterwhite in Fresno on June 20, 1922.

Complainants represent and applicant admits that there is now a limited number of persons located within the territory which applicant desires to serve from the proposed exchange in Herndon who are provided with service direct from the Fresno exchange. It is not the plan to withdraw this service but to connect any additional service which may be required hereafter within this particular territory with the proposed exchange. Testimony of witnesses for applicant is to the effect that, by reason of the location of the town of Herndon with respect to distance from Fresno, where its nearest exchange is located, and by reason of the present and estimated future development of the town and the territory adjacent to it the demand for telephone service can best and most economically be met by the establishment of a local exchange located within the town; that the rates which it can offer and which it proposes in its application to establish will make the cost of service to subscribers within this territory very much less than the cost of similar service furnished from its Fresno exchange would be and that the cost of constructing and maintaining necessary lines from Fresno, if required to provide service from that exchange, would be excessive and unreasonable. Complainants urge, however, that there is not now sufficient development and that there is not now any indication that the future development of Herndon and vicinity will be such as to render a local service necessary or of any value whatever to the community; that their business, social and other community interests center in Fresno; that their need for telephone service is chiefly with Fresno and that not only would the cost of service, with the payment of toll charges for

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calls between Herndon and Fresno as applicant proposes, be greater than the cost of service connecting directly with Fresno would be, but the service itself would be less satisfactory by reason of being less direct if applicant were permitted to establish its proposed local exchange in Herndon.

Present subscribers within this territory who are served directly from Fresno object to the discontinuance of Fresno service and the substitution of Herndon service. If a local exchange were established in Herndon and toll rates established for calls between Herndon and Fresno, these toll charges would apply to all calls between these subscribers, if their Fresno service were continued, and subscribers hereafter served from the Herndon exchange even though located within the same territory. The toll charges would not apply to calls between subscribers within this territory and connecting with the Fresno exchange or to calls between subscribers connectnig with the Herndon exchange. Furthermore, subscribers located in Fresno would be permitted, without payment of the toll charge, to call subscribers within the Herndon service area whose lines connect with Fresno, but for calls to all subscribers within the same area but whose lines may connect with the Herndon exchange they would be required to pay toll. If, notwithstanding these facts, it were shown that the public interest could best be served by the establishment of a local telephone exchange in Herndon, its establishment might properly be authorized and the conditions here referred to allowed to continue until in the natural course incident to development of the community and shifting of population the situation would eventually adjust itself. With the growth of communities such conditions are frequently unavoidable. In this case, however, applicant has failed to show and it does not appear to the Commission that the present public convenience and necessity require the establishment of the proposed local exchange. On the contrary it does appear, as to the present needs of this community, this direct service to Fresno is a necessity.

In its filed answer to the complaint asking that defendant be compelled to provide service to complainants from its Fresno exchange, defendant avers, among other things, that the extension of the desired service would be unwarranted from a standpoint of cost. The testimony appears to sustain this contention and, under the circumstances, it would be unreasonable to ask that defendant bear the entire cost of extending service. Defendant has an established rule, made effective with the approval of the Commission, providing that any extension which is not to be made at its sole cost shall be covered by a written agreement between it and the person desiring the extension, defining the terms and conditions under which such extension is to be constructed, subject to appeal to the Commission. Complainants may demand the service

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which they are here seeking, subject to the rule here referred to, and, in the event of failure to agree as to terms and conditions, the Commission will, by further order, define the terms and conditions under which the necessary extensions shall be constructed. Applicant's petition for an order declaring that public convenience and necessity require the establishment of a local exchange in Herndon must be denied.

ORDER.

Application having been filed by The Pacific Telephone and Telegraph Company with the Railroad Commission, asking that the Commission make its order granting applicant a certificate that present public convenience and necessity require said applicant to begin the construction of a plant or system for the purpose of establishing a telephone exchange in the town of Herndon, California, and to publish, file and place in effect, rates therefor; and complaint having been filed by *C. J. Stephens et al.* vs. *The Pacific Telephone and Telegraph Company*, asking that said application be denied and that said company be compelled to provide complainants with suburban service from its Fresno exchange, a public hearing having been held, the Commission being fully apprised and both matters being ready for decision:

The Railroad Commission hereby finds that the present public convenience and necessity do not require the construction of said plant or system or the establishment of said telephone exchange in the town of Herndon, California.

Basing its conclusions on the foregoing finding and on other findings referred to in the opinion preceding this order;

It is hereby ordered, that the application herein be and it is hereby denied.

And it is hereby further ordered, that defendant, The Pacific Telephone and Telegraph Company, shall, upon proper application therefor duly filed by the complainants herein, proceed forthwith with the construction of such extension or extensions of its lines, plant or system as may be necessary to provide complainants with telephone service to and from its Fresno exchange, subject, however, to defendant's established rules and regulations governing the construction of extensions in such cases, on file with the Railroad Commission and in effect; provided, that in the event of complainants and defendant failing to agree upon the terms and conditions under which said extension or extensions are to be constructed the Commission will by supplemental order herein prescribe said terms and conditions.

Dated at San Francisco, California, this fourteenth day of August, 1922.

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DECISION No. 10875.

IN THE MATTER OF THE APPLICATION OF COMPTON WATER AND LIGHTING COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN WATER RATES.

Application No. 7871.

Decided August 17, 1922.

J. Lee Shepard, for Applicant.

BY THE COMMISSION.

OPINION.

Compton Water and Lighting Company is a public utility in the business of selling and distributing water for domestic purposes to consumers in and in the vicinity of Compton, California. In this proceeding applicant asks authority to charge for fire service and to increase its rate for domestic service, alleging that the present rates do not produce revenue sufficient to meet maintenance and operation expenses, replacement annuity, and provide an adequate return on the investment.

A public hearing was held in this matter before Examiner Williams at Compton, all of applicant's consumers having been notified and given an opportunity to appear and be heard. At the hearing reports covering field investigations, appraisals of properties and maintenance studies were presented by Mr. R. W. Hawley for applicant and by Messrs. R. H. Nicholson and M. E. Ready, hydraulic engineers of the Commission.

It appears that applicant's system consists of two wells, from which the water is pumped by electrically driven automatically controlled equipment, two tanks of total capacity of 50,000 gallons and approximately 26.5 miles of distribution mains varying in diameter from one inch to eight inches. There is also another pumping plant in process of construction.

This company was organized in 1903, at which time it purchased the plants and distribution systems of several individuals who had been supplying water in this district. The system grew very slowly until 1920. Since then the larger portion of the pipe lines has been installed directly by the company, by real estate promoters who later donated them to the company, and by real estate men and consumers depositing with the company the funds to cover the expense of installation. The number of consumers has also increased very rapidly in the last few years and is still increasing rapidly, 300 having been added from January 1, 1922, to July 1, 1922, making a total on the latter date of 1024.

Mr. R. W. Hawley submitted an appraisal of this system, showing an estimated investment of $84,536. The Commission's engineers' appraisal amounted to $82,568 on the same basis. It developed at the hearing that there were some 224 services more than they had included.

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Making this correction brings their estimate up to $83,915. This we believe to be a fair sum upon which to allow interest return for this proceeding.

The replacement annuity, computed by the 6 per cent sinking fund method, is $2,145. This sum, accumulated annually, is designed to provide a proper fund for the replacement of wornout properties. Applicant submitted an estimate of $13,770 as a reasonable allowance for the annual maintenance and operation expense, while the Commission's engineers recommended the sum of $7,365 for this item.

Applicant's estimate was based on salaries which it was shown were much higher than those actually contemplated by the company; also on expenditures for materials and supplies which we are convinced were not warranted either by previous expenditures of the company (the records of which are admittedly poor), or by comparison with the expenditures on similar systems in the same portion of the state. After careful consideration we believe the sum of $7,365 is sufficient allowance for maintenance and operation expense if the system is operated economically.

The following is a summary of the annual charges, based on a careful consideration of the evidence:

Return on $83,915 at 8 per cent	$6,713 00
Replacement annuity	2,145 00
Maintenance and operation cost	7,365 00
Total	$16,223 00

The operative income of this company for 1921 was $7,394. Of course, even at the present rates, the income for the next twelve months will be materially greater on account of the growth of the number of consumers, but even with this increase the income will not be sufficient to cover the annual charges set out above.

A number of consumers appeared and complained of poor service. The company admitted the service had been poor but showed that it was taking measures to remedy the faults and we believe that the service will be materially improved as soon as the new installations are completed.

Taking all the facts and conditions into consideration, it is apparent that this is a case in which the application for authority to increase rates should be granted, and the schedule established in the following order is designed to return to applicant maintenance and operation expense, replacement annuity, and a proper return on investment.

Inasmuch as the fire hydrants connected with this system are not the property of the company, rates will be established commensurate with the value of the service rendered by the company but which will not reflect any interest return upon the money invested in the hydrants.

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ORDER.

Compton Water and Lighting Company having applied to the Railroad Commission for authority to increase its rates for water, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the rates and charges of Compton Water and Lighting Company, in so far as they differ from the rates herein established, are unjust, unreasonable and unremunerative, and that the rates and charges herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Compton Water and Lighting Company be and it is hereby authorized to file with the Railroad Commission of the State of California, within twenty (20) days from the date of this order, the following rates, effective for all service rendered subsequent to September 1, 1922:

MONTHLY FLAT RATES.

For each tenement or dwelling house of 5 rooms or less	$1 25
For each tenement or dwelling house over 5 rooms, for each additional room	15
For toilets or bath tubs in tenements or dwelling houses, each	20
For each automobile	25
For soft drink and ice cream establishments	3 00
For club rooms	2 00
For barber shops, per chair	1 00
For public bath or toilet, each	1 00
For dentists' offices, per chair	2 00
For stores, banks, etc.	1 25
For offices	1 00
For irrigation of lawns and gardens, per 100 square feet	03
For fire hydrants with less than 2½-inch connections with mains	50
For fire hydrants with 2½-inch and larger connections with mains	75

All other use to be paid for at measured rates.

MONTHLY METER RATES.

From 0 to 500 cubic feet, per 100 cubic feet	$0 20
From 500 to 1,500 cubic feet, per 100 cubic feet	15
Over 1,500 cubic feet, per 100 cubic feet	10

MONTHLY MINIMUM RATES.

For ⅝-inch meters	$1 00
¾-inch meters	1 30
1 -inch meters	1 75
1½-inch meters	2 50
2 -inch meters	3 00

Dated at San Francisco, California, this seventeenth day of August, 1922.

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DECISION No. 10877.

IN THE MATTER OF THE APPLICATION OF WM. H. GUTHRIE TO SELL THE WATER PLANT AND DISTRIBUTING SYSTEM ON A PORTION OF SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF LOT EIGHTY-TWO OF THE McDONALD TRACT, AS PER MAP RECORDED IN BOOK 15, PAGES 21–22, MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

Application No. 8107.

Decided August 17, 1922.

BY THE COMMISSION.

ORDER.

William H. Guthrie having made application to this Commission for authority to sell to Frank Garn his water distributing system, and the latter having joined in the application; and it appearing that all the consumers now served by this water system will be taken over and supplied by Frank Garn, who resides on the premises; and it further appearing that this is not a matter in which a public hearing is necessary, and that the application should be granted;

It is hereby ordered, that William H. Guthrie be and he is hereby authorized to sell and transfer to Frank Garn a water plant and distributing system situated on a portion of the south half of north half of northwest quarter of Lot 82 of the McDonald tract, Los Angeles County, and consisting of two and one-half acres thereof, together with one 10-horsepower electric motor, one 3500-gallon galvanized tank, one pumphouse 10 by 12 feet, one well 246 feet deep and one No. 4 Krogh centrifugal pump, subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before October 1, 1922, and a certified copy of the instrument of conveyance shall be filed with this Commission by said William H. Guthrie within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which William H. Guthrie actually relinquishes control and possession of the property herein authorized to be sold, said William H. Guthrie shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this seventeenth day of August, 1922.

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DECISION No. 10883.

IN THE MATTER OF THE APPLICATION OF MATTIE EVANS ALDERMAN FOR PRIVILEGE TO MORTGAGE THERMAL WATER SYSTEM, TOGETHER WITH OTHER PROPERTIES ADJOINING.

Application No. 8072.

Decided August 19, 1922.

Mattie Evans Alderman, in propria persona.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing Mattie Evans Alderman to execute a mortgage securing the payment of a three-year 7 per cent note in the principal amount of $4,000.

A public hearing was held by Examiner Williams in Los Angeles on August 16, 1922.

The record shows that Mattie Evans Alderman is the owner of certain properties located at Thermal, Riverside County, and consisting of 56 lots in Thermal townsite, 34 acres of land adjoining and public utility water properties known as the Thermal Water System. It appears that applicant acquired these properties during 1912 and in payment therefor executed a mortgage for $9,000. Thereafter $5,000 of this indebtedness was paid, and on June 1, 1917, a new mortgage in favor of Mary J. Whitten, was executed to secure the remaining $4,000. This mortgage was evidenced by a note bearing interest at 8 per cent per annum and maturing June 1, 1920, which note is still outstanding.

Applicant now proposes to pay this indebtedness, which is long past due, by executing a new mortgage of her properties to Citizens Trust and Savings Bank to secure the payment of a $4,000 note dated July 14, 1922, and payable three years after date with interest at 7 per cent per annum. A copy of the proposed mortgage is filed with the petition. It is of record that applicant intends to pay the proposed note at or before maturity with the proceeds obtained from the sale of real property.

Applicant testified that $1,400 of the total indebtedness of $4,000 was allocated to the water properties, which are reported to have cost approximately $3,250. While the Commission will grant the present request involving the mortgage of utility and nonutility properties, it is, of course, understood that it will not be bound to recognize all of the $4,000 note in any rate or other proceeding which may be brought before it.

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ORDER.

Mattie Evans Alderman having applied to the Railroad Commission for permission to execute a mortgage securing the payment of a note for $4,000, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such note is reasonably required for the purpose specified herein;

It is hereby ordered, that Mattie Evans Alderman be and she is hereby authorized to execute a mortgage substantially in the same form as that filed with the petition herein, and to issue a $4,000 note payable on or before three years after date, with interest at not exceeding 7 per cent per annum.

The authority herein granted is subject to the following conditions:

1. Applicant shall use the proceeds obtained from the issue of the note herein authorized to refund the indebtedness represented by the note in favor of Mary J. Whitten now outstanding.

2. The authority herein given to execute a mortgage is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

3. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

4. The authority herein granted will apply only to such mortgage as may be executed and to such note as may be issued on or before October 31, 1922.

5. Mattie Evans Alderman shall file a copy of the note herein authorized within thirty days after its issue, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of August, 1922.

DECISION No. 10885.

IN THE MATTER OF THE APPLICATION OF SAN CHRISTINA INVESTMENT COMPANY, RUDOLPH SPRECKELS, CLAUS A. SPRECKELS, EMMA C. HUTTON, AND RUDOLPH SPRECKELS AND CLAUS A. SPRECKELS, TRUSTEES, FOR AN ORDER AUTHORIZING SALE. (WATER SYSTEM.)

Application No. 8074.
Decided August 19, 1922.

H. F. May, for San Christina Investment Company et al.
H. C. Wyckoff, for Fred L. Somers.

BY THE COMMISSION.

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OPINION.

The above entitled applicants own and operate a public utility water system supplying water for domestic purposes to some 36 consumers in the town of Aptos, Santa Cruz County.

In this application the Commission is asked to make its order authorizing the sale of the public utility water system to Fred L. Somers, of Pomona, who joins in the application.

A public hearing was held in this matter before Examiner Eddy at Santa Cruz. All of applicants' consumers were duly notified and were given an opportunity to be present and to be heard.

The property involved consists of a certain tract of land containing about two acres, known as the "Water Works Lot," near applicants' so-called Aptos Ranch (particularly described in the application), where the water for the system is collected from natural springs, together with the water works situated thereon; also a certain parcel of land, being a part of Soquel Augmentation Rancho, and being a strip 30 feet wide, extending from the above mentioned "Water Works Lot" along the transmission pipe line to the northern boundary of applicants' "Aptos Ranch," which is particularly described in the application, together with all water works situated on the tract and all water rights and rights of way pertaining thereto; also all that portion of the water system within the boundaries of applicants' so-called "Aptos Ranch," a tract of land containing upwards of two thousand acres; together with the distributing system in Aptos and vicinity.

The testimony shows that Fred L. Somers, the purchaser, is a responsible party; that he is an engineer and has personally inspected the system and plans to repair the transmission line which is now in a run-down condition. The Commission is of the opinion that this improvement will result in a material benefit to the water service. Mr. Somers, through his attorney, asserted that he is willing to assume all the obligations involved in operating the system as a public utility.

There was no evidence presented to oppose the granting of this application, and the Commission is of the opinion that it should be granted.

ORDER.

San Christina Investment Company, Rudolph Spreckels, Claus A. Spreckels, Emma C. Hutton, and Rudolph Spreckels and Claus A. Spreckels, trustees, joined by Fred L. Somers, having made application as entitled above, a public hearing having been held thereon and the matter having been submittted:

It is hereby found as a fact that the granting of this application will not work a hardship on applicants' consumers but in fact will result in their benefit, and that public interest demands that the application be granted.

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And basing the order upon the foregoing finding of fact and upon the statements of fact in the preceding opinion;

It is hereby ordered, that the San Christina Investment Company, Rudolph Spreckels, Claus A. Spreckels, Emma C. Hutton, and Rudolph Spreckels and Claus A. Spreckels, trustees, be and they are hereby authorized to sell the water system referred to in this application to Fred L. Somers, of Pomona, upon the following conditions:

1. The authority herein granted shall apply to the following public utility property: All that certain lot, known as the "Water Works Lot," being a part of the Soquel Augmentation Rancho, containing two acres, more or less, which is particularly described in the application, together with the water works situated thereon and water rights pertaining thereto; also a certain parcel of land, being a part of the Soquel Augmentation Rancho, and being a strip thirty (30) feet wide, extending from the above mentioned "Water Works Lot" along the transmission pipe line to the northern boundary of applicants' so-called "Aptos Ranch," which is particularly described in the application, together with all the water works situated on the tract, and water rights and rights of way pertaining thereto; also that portion of the water system within the boundaries of applicants' so-called "Aptos Ranch," a tract of land containing upwards of two thousand acres; together with the distribution system in Aptos and vicinity, all in Santa Cruz County.

2. The authority herein granted to transfer said water system shall apply only to such transfer as shall have been made on or before September 30, 1922, and a certified copy of the instrument of conveyance shall be filed with the Commission by San Christina Investment Company, Rudolph Spreckels, Claus A. Spreckels, Emma C. Hutton, and Rudolph Spreckels and Claus A. Spreckels, trustees, within thirty (30) days of the date on which it is executed.

3. Within ten (10) days from the date on which San Christina Investment Company, Rudolph Spreckels, Claus A. Spreckels, Emma C. Hutton, and Rudolph Spreckels and Claus A. Spreckels, trustees, actually relinquish control and possession of the properties herein authorized to be sold, said applicants shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

4. The consideration given for the sale of this public utility water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this nineteenth day of August, 1922.

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DECISION No. 10887.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

Application No. 6326.

Decided August 19, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9132 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.75 per barrel at the company's plant in Los Angeles; and

Whereas, Los Angeles Gas and Electric Corporation has heretofore filed with this Commission affidavit to the effect that the price paid for oil has been heretofore reduced to $1.25 per barrel at its plant in Los Angeles, and the Commission has, in Decision No. 10797, ordered a total reduction of 5 cents per 1000 cubic feet from the basic rates fixed in Decision No. 9132; and

Whereas, Los Angeles Gas and Electric Corporation has filed, under date of August 14, 1922, affidavit that effective August 8, 1922, the price for crude oil will be reduced from $1.25 per barrel, delivered at the receiving tanks of said Los Angeles Gas and Electric Corporation, to $1 per barrel;

It is hereby ordered, that the rates set forth in Decision No. 9132, in Application No. 6362, designated as Schedules Nos. 1, 2, 3, 4, and A, be and they are hereby reduced by 7 cents per 1000 cubic feet, effective for all regular meter readings taken on and after October 1, 1922, this being a further reduction of 2 cents per 1000 cubic feet.

It is hereby further ordered, that Los Angeles Gas and Electric Corporation file with the Commission, on or before October 1, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this nineteenth day of August, 1922.

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DECISION No. 10888.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR ARTIFICIAL GAS SUPPLIED TO THE CITY OF SANTA BARBARA AND UNINCORPORATED COMMUNITIES IN THE COUNTY OF SANTA BARBARA.

Application No. 5234.

Decided August 19, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9127 in the above entitled matter, this Commission provided with reference to the rates therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 2.6 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $2.54 per barrel at the company's plant in Santa Barbara; and

Whereas, Southern Counties Gas Company of California has heretofore filed with this Commission affidavit that the price paid for oil was reduced to $1.70 per barrel at its gas plant in Santa Barbara, and the Commission having in Decision No. 10795 ordered reductions totaling 22 cents per 1000 cubic feet from the rates fixed in Decision No. 9127; and

Whereas, Southern Counties Gas Company of California now makes affidavit that, effective August 8, 1922, Southern Counties Gas Company is able to purchase oil of satisfactory quality at an average price of $1.45 per barrel delivered at its gas plant in Santa Barbara, this being a further decrease of 25 cents and a total decrease of $1.09 per barrel from the price on which the rates were established in Decision No. 9127;

It is hereby ordered, that the rates set forth in Decision No. 9127, in Application No. 5234, designated as Schedules Nos. 1, 2 and 3, be and they are hereby reduced by 28 cents per 1000 cubic feet, effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of 6 cents per 1000 cubic feet.

It is hereby further ordered, that Southern Counties Gas Company of California file with the Commission, on or before September 8, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this nineteenth day of August, 1922.

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DECISION No. 10889.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN, AND A GENERAL ADJUSTMENT OF, ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided August 19, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9133 in the above entitled matter, this Commission provided with reference to Rate Schedules Nos. A-1, A-4 and A-5 therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10-cent increase or decrease respectively in the cost of oil as might from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation; and

Whereas, this Commission has this day, by Decision No. 10887, ordered Los Angeles Gas and Electric Corporation to reduce its gas rates as specified in Decision No. 9132, by 7 cents per 1000 cubic feet, this being a further reduction of 2 cents per 1000 cubic feet;

It is hereby ordered, that the rates as set forth in Decision No. 9133, in Application No. 6338, designated as Schedules Nos. A-1, A-4 and A-5, be and they are hereby reduced by 7 cents per 1000 cubic feet, effective for all regular meter readings taken on and after October 1, 1922, this being a further reduction of 2 cents per 1000 cubic feet.

It is hereby further ordered, that Southern California Gas Company file with the Commission on or before October 1, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this nineteenth day of August, 1922.

DECISION No. 10891.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF RATES OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR SERVICE OF GAS IN THE CITY OF STOCKTON.

Case No. 1664.

Decided August 19, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9830 in the above entitled matter, this Commission provided with reference to the rates established in Decision No. 8459 that such rates after being reduced by 8 cents per 1000 cubic feet,

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as provided therein, would be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of 1.5 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.70 per barrel at Stockton; and

Whereas, Western States Gas and Electric Company, having heretofore filed with the Commission an affidavit that the price paid for oil had been reduced by 25 cents per barrel, and the Commission having in consequence in Decision No. 10786 ordered a reduction of 4 cents per 1000 cubic feet; and

Whereas, Western States Gas and Electric Company now makes affidavit that on August 8, 1922, the price paid for oil was reduced to $1.20 per barrel, this being a further reduction of 25 cents and a total decrease of 50 cents per barrel from the base price on which rates were established in Decision No. 9830.

It is hereby ordered, that the gas rates established in Decision No. 9830 in Case No. 1664, be and they are hereby reduced by 7 cents per 1000 cubic feet effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of 3 cents per 1000 cubic feet.

It is hereby further ordered, that Western States Gas and Electric Company file with the Commission on or before September 8, 1922, a revision of its schedule to comply with this order.

Dated at San Francisco, California, this nineteenth day of August, 1922.

DECISION No. 10895.

ROSENBERG BROS. AND COMPANY, GROWERS RICE MILLING COMPANY, C. E. GROSJEAN RICE MILLING COMPANY, SACRAMENTO VALLEY RICE MILLING COMPANY, THE NATIONAL RICE MILLS, CALIFORNIA STATE RICE MILLING COMPANY,

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY.

Case No. 1744.

Decided August 23, 1922.

RATES—RAILROAD—PADDY RICE—RELATION TO GRAIN RATES.—The Commission held that a fair interpretation of its previous decision was that it established a constant relation of 125 per cent of rates contemporaneously in effect as the measure of rates for paddy rice.

RATES—REPARATION.—Shippers are adjudged entitled to reparation for shipments made between January 7 and July 1, 1922, when the ratio was not maintained.

E. W. Hollingsworth, R. T. Boyd and *Bishop and Bahler,* for Complainants.
Elmer Westlake and *H. W. Klein,* for Atchison, Topeka and Santa Fe Railway Company and for Southern Pacific Company.

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James S. Moore, for Western Pacific Railroad Company.
Charles R. Detrick, and *Heller, Ehrman, White and McAuliffe*, for Sacramento Northern Railroad Company.
Butler and Van Dyke, for Central California Traction Company.
L. H. Rodebaugh, for San Francisco-Sacramento Railroad Company.
Sanborn, Roehl and Smith, for Sacramento Navigation Company and California Transportation Company, Intervenors.

BY THE COMMISSION.

OPINION.

The complainants herein are owners and operators of rice mills located at various points within the State of California. By complaint filed on April 14, 1922, it is alleged that the rates on paddy rice are, and since January 7, 1922, have been unreasonable, unjustly discriminatory and unduly prejudicial to the extent that they exceed and have exceeded 125 per cent of the rates contemporaneously in effect between the same points on whole grains, such as wheat, corn, oats, etc. Reparation is asked and an order fixing for the future reasonable and nondiscriminatory rates on this commodity, which will be hereinafter referred to as rice.

A petition of intervention was filed on behalf of the Sacramento Navigation Company and the California Transportation Company stating that, directly or indirectly with other carriers, they serve a large part of the rice producing area of the Sacramento Valley and that their revenues would be "vitally affected" by our decision. By consent of counsel, the following rice millers were added as parties complainant: Dupont, Carleton and Company; M. J. Brandenstein and Company; Natoma Rice Milling Company, and M. Phillips and Company.

This is the fifth complaint filed with us in less than two years, involving the rates on this commodity. It was agreed between counsel that the records made in those proceedings should be considered by us in connection with the instant case. The development of the rice industry within the state and the origin and history of the rates applicable thereto have been fully discussed in our former decisions, and need not be repeated here in detail. However, a complete understanding of the rate adjustment now complained of makes necessary a brief reference to those cases and to the numerous changes that have taken place during the past two years in the rice rates as the result of decisions of the Interstate Commerce Commission, of this Commission, and through the voluntary action of the carriers themselves.

The instant complaint grows out of and is predicated upon our order entered in Cases Nos. 1432 and 1437 on January 6, 1921, Decision No. 8517. Briefly stated, those complaints, which were consolidated for hearing, alleged that the rates on rice within the state were unreasonable, unjustly discriminatory and unduly prejudicial. On the record then before us, we found the existing rates to be unreasonable, and required the carriers to establish carload rates on rice based on "125

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per cent of the rates established August 26, 1920," on whole grains. The carriers interpreted this order as fixing a definite percentage relationship between the rates as of August 26, 1920, on whole grains and rice, and the tariffs filed by them effective February 5, 1921, may be said to have established this basis, the rice rates in some instances being increased in order to make them 125 per cent of the grain rates. The complainants, who had asked for rates no higher than the grain rates, were dissatisfied with this decision and filed a petition for rehearing, which petition was denied on March 4, 1921. Shortly thereafter, a complaint was filed by Rosenberg Brothers and others, Case No. 1585, alleging that the rates charged on shipments of rice made by the complainants therein between January 1, 1917, and the date of the complaint, April 16, 1921, were unreasonable and asking reparation to the basis of rates which should be found reasonable by us. On April 22, 1921, still another complaint was filed, Case No. 1588, by the Pacific Rice Growers Association, alleging that the then existing rates on rice were unreasonable, discriminatory and prejudicial to the extent that they exceeded the rates contemporaneously in effect on grain. In other words, these two cases really again raised practically the same issues as were decided in our Decision No. 8517. Case No. 1588 was dismissed on August 24, 1921, for the reason, as stated in the syllabus of the Decision, No. 9411, that the complainants had "adduced no evidence to show that rates per se, on paddy rice are unreasonable, or that grain rates are or are not reasonable." The complaint in Case No. 1585 was dismissed on March 21, 1922, for reasons later stated in this report.

As is well known, following the decision of the Interstate Commerce Commission in *Increased Rates 1920,* 58 I. C. C. 320, rates in the so-called Mountain-Pacific group were generally increased 25 per cent, effective August 26, 1920. Like increases were permitted on traffic within the State of California under our Decision No. 7983. As the result of a decision by the federal commission in *Rates on Grain, Grain Products and Hay,* 64 I. C. C. 85, the interstate rates on grain, and also rice, effective January 7, 1922, were reduced 10 per cent. A like percentage reduction was made effective on the same date, on rates within this state on numerous agricultural products, not, however, including rice. The carriers explain that no reductions were then made in the state rates on rice since, in most instances, those rates had been reduced more than 10 per cent under our order in Cases Nos. 1432 and 1437, and it was their purpose to then make reductions only where the rates on a specified commodity had not been already reduced 10 per cent or more subsequent to August 26, 1920. This statement, however, is controverted by a rate witness for complainants who testified that from an examination of the tariffs "90 per cent of the rates which were reduced voluntarily by the carriers were further reduced under this

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10 per cent reduction of January, 1922." In any event, as the result of these various adjustments the state rates made effective on rice on January 7, 1922, exceeded the rates contemporaneously applicable on whole grains by more than 125 per cent. It is this higher rate basis that is here attacked as unreasonable.

Shortly before this proceeding was heard, and on May 16, 1922, the Interstate Commerce Commission handed down its decision in *Reduced Rates 1922,* 68 I. C. C. 676. In pursuance of the conclusions therein announced, the carriers filed tariffs effective July 1, 1922, or later, which so reduced many rates which had been increased 25 per cent, effective August 26, 1920, as to make them but 12.5 per cent in excess of the rates in effect August 25, 1920. Like reductions were made effective within this state on rice and many other commodities. Since the rates on grain had been reduced in January of this year, they were not further reduced, interstate or intrastate, effective July 1. Summarized, therefore, the state rates on rice which were reduced by us in February, 1921, were not reduced in January of this year when the grain rates were voluntarily reduced; and the latter rates were not further reduced effective July 1, 1922, at which time the rice rates were reduced. As the result of these several readjustments, the state rates on rice are now, and since July 1, 1922, have been, approximately 125 per cent of the grain rates and are, therefore, in substantial conformity with the basis fixed by us as reasonable in Decision No. 8517. The exceptions to this basis result from the disposition made of fractional parts of a cent in publishing rates.

In dismissing Case No. 1585 on March 21, 1922, we referred to the fact that the readjustments brought about on February 5, 1921, as the result of our Decision No. 8517, resulted in both increases and decreases, and, in denying reparation, said:

> This Commission has heretofore stated its belief that reparation should not be awarded on adjustments such as are involved here on rates effective by mandate of governmental power and during a period when the railroads were operated by the government as a war emergency measure.
>
> The paddy rice rates fixed and prescribed by this Commission's Decisions Nos. 7983 and 8517 applied to all of the defendants and at practically every rice-shipping point throughout the entire state. Under a general adjustment of all rates on a particular commodity to a reasonable basis, as was done by Decision No. 8517, carriers are not permitted to make any resultant increases as to certain rates retroactive. For similar reasons reparation should not be allowed on resultant decreased rates unless the evidence clearly shows justification therefor.
>
> No evidence was offered indicating that complainants had suffered any damage, beyond having paid a higher rate during a certain period than they were required to pay at a later date.

When Case No. 1585 was filed with us, a similar proceeding was filed by the same complainants with the Interstate Commerce Commission, involving intrastate shipments moving during the period of federal control. That case was decided on May 20, 1922, *Rosenberg Bros. and Co.* vs. *Director General,* 69 I. C. C. 103. The federal commission there

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held the rates unreasonable to the extent that they exceeded 125 per cent of the grain rates. The record in that proceeding consisted almost entirely of the record made before us in Cases Nos. 1432 and 1437, and the Commission said, page 104:

> The determination of the State Commission made with full knowledge of local conditions and upon practically the same record as is here presented is entitled to much weight.

It is true that our finding in Cases Nos. 1432 and 1437 was that the present rates on paddy rice "are unjust and unreasonable to the extent that they exceed 125 per cent of the rates established August 26, 1920, applying to whole grain." Our order required that the prescribed basis be established on or before January 20, 1921, and that the defendant carriers thereafter "abstain from maintaining the unreasonable rates found to be existing by the preceding opinion." While our order, therefore, did not in specific terms fix a definite relationship for the future, inferentially, at least, it was an order for the future, a fact made clear by a careful reading of the report itself. In both Cases Nos. 1432 and 1437, the existing rates were alleged to be unreasonable and discriminatory. The complainants in Case No. 1437 asked that the Commission fix rates on rice not to exceed those contemporaneously in effect on whole grains; the complainants in Case No. 1432 asked that we fix a reasonable mileage scale of rates. As to the latter contention, we expressed "the opinion that a mileage scale of rates could not be constructed that would be reasonable and nondiscriminatory" and dismissed this part of the complaint. The history of the rates on grain and rice was there related in detail. We referred to the fact that testimony offered by the defendant showed that in the beginning,

> rice rates were based upon 150 per cent of the grain rates, but subsequent horizontal percentage increases have resulted in increasing the differential and widening the relationship between grain rates and rice rates until the rice rates are now higher than they probably would have been had adjustments been made by any other method than a horizontal increase.

Taking all factors into consideration, we found the then existing rates on rice unreasonable to the extent that they exceeded rates based on 125 per cent of the rates established August 26, 1920, on whole grain. Reparation was not asked in either proceeding, but the question of reasonableness of rates for the future was involved in both cases. In determining that issue, we refused either to prescribe a mileage scale or to establish the same rates on rice as were applicable to whole grains, as prayed for in the two complaints. On the contrary we but continued a policy adopted by the principal defendant in initiating rice rates, that is, making such rates with relation to the grain rates. The relationship fixed by us, however, differed in degree from that used by the defendant and was clearly intended as a basis for future application. Were this not the case, our finding would have been futile. As

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a matter of fact, the relationship fixed by our order did continue until January 7, 1922, when the rates on grain were reduced without a corresponding reduction in the rates on rice, thereby again producing a situation similar to that condemned in our Decision No. 8517. It appears, therefore, that during the period of federal control up to and including February 28, 1920, the federal commission has recognized as reasonable rice rates based on 125 per cent of the grain rates; that this basis prevailed between February 5, 1921, and January 7, 1922, and was restored with but few deviations on July 1, 1922. In the light of all the circumstances, no other conclusion can be reached than that basis should also have prevailed during the period January 7, 1922, to July 1, 1922, and should now be in effect. To the extent, therefore, that the rates on paddy rice during the period last named exceeded, and to the extent that they now exceed, 125 per cent of the rates contemporaneously applicable on whole grains between the same points, they were, are, and for the future will be to that extent unreasonable.

The complaint asks reparation, but by agreement of counsel no evidence was submitted at the hearing as to shipments made by the complainants or the payment of freight charges, these matters being deferred pending the determination of the issue of reasonableness of the rates involved. The rates now having been found unreasonable, reparation to the basis of the rates herein held reasonable should be paid by the defendant carriers to the parties of record by whom the freight charges were actually paid and borne. The complainants should submit statements of shipments to the defendant carriers for check, thereby avoiding the necessity of a further hearing. Should it not be possible to reach an agreement as to particular shipments, the matter can then be referred to us for further consideration and the entry of a supplemental order, should this prove necessary.

An order will be entered accordingly.

ORDER.

This case being at issue upon complaints and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is hereby ordered, that the defendants, according as they participate in the transportation, be and they are hereby notified and required to cease and desist, on or before September 23, 1922, and thereafter to abstain from publishing, demanding or collecting for the transportation of paddy rice, in carloads, between points within the State of California,

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rates which exceed by more than 25 per cent the rates contemporaneously applicable on whole grains, viz: wheat, oats, barley, etc., in carloads, from and to the same points of origin and destination.

It is hereby further ordered, that the said defendants, according as they participate in the transportation, be and they are hereby notified and required to establish, on or before September 30, 1922, upon notice to this Commission and to the general public by not less than ten days filing and posting, and thereafter to maintain and apply to the transportation of paddy rice, in carloads, between points in the State of California, rates which shall not exceed by more than 25 per cent the rates contemporaneously applicable between the same points of origin and destination, on whole grains, viz: wheat, oats, barley, etc.

Dated at San Francisco, California, this twenty-third day of August, 1922.

DECISION No. 10896.

IN THE MATTER OF THE APPLICATION OF HAINES CANYON WATER COMPANY, A CORPORATION, FOR INCREASES IN RATES.

Application No. 7593.
Decided August 23, 1922.

RATES—WATER UTILITY—OVERBUILT SYSTEM—FULL RETURN.—When a system spreads over a large area, portions of which are sparsely settled, and is overbuilt for present uses, it is held it would be unfair to present consumers to allow rates that would produce full interest return upon the investment.

Evans and Pearce, by *W. E. Evans*, for Applicant.
John S. Knox, for Consumers' Committee.
Fred M. Ashby, for Business Men's Association.

BY THE COMMISSION.

OPINION.

This is an application made by the Haines Canyon Water Company asking for authority to increase rates charged for domestic and irrigation water in and in the vicinity of the unincorporated town of Tujunga, Los Angeles County, California.

The application alleges in effect that the present rates as fixed by this Commission in its Decision No. 8080, effective November 12, 1920, are insufficient and inadequate in that they do not provide an income to applicant sufficient to cover maintenance and operation expense, and an adequate return on its investment.

A public hearing in this matter was held at Tujunga, before Examiner Williams, of which all consumers were notified and given an opportunity to be present and to be heard.

The water system of the Haines Canyon Water Company at the present time consists of collecting tunnels constructed through water-bearing

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lands of Haines and Blanchard canyons; a well and pumping plant; two booster plants; and three reservoirs, two of which are concrete lined. The water supply from the canyons is distributed to consumers at the higher elevations, augmented as needed from the well and booster pumps. The early history and methods of operation of this utility are fully covered in a number of proceedings before this Commission by applicant and its predecessor. Reference is made particularly to Decision No. 5065, *In the matter of the application of Western Empire Suburban Farms Association for authority to adjust and increase its water rates*—Application No. 2912.

The present rates charged by the utility are of the "service charge" type and were established by this Commission in its Decision No. 8080, *In the matter of the application of Haines Canyon Water Company for an increase of its water rates*—Application No. 4642.

At the hearing in the present proceeding Mr. H. B. Lynch, on behalf of applicant, and Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, presented reports setting forth estimates of the original cost of the water system, replacement annuity, and maintenance and operation expenses for the future. Mr. R. W. Hawley, on behalf of the Consumers' Committee, submitted a report setting forth, among other things, estimates of replacement annuity based on Mr. Lynch's report of capital expenditure, and maintenance and operation expense for the future.

The evidence shows that the system spreads over a large area, portions of which are sparsely settled, and that it is overbuilt for its present uses. It is unnecessary at this time to discuss the investment in this system, because of the fact that it would be unfair to the present consumers to so increase the rates as to produce full interest return upon the investment in the system. However, the rates established herein are designed to provide a return which, under all the circumstances, is considered reasonable and just both to consumers and utility.

The estimated annual expenses of maintaining and operating this utility were as follows: Mr. Lynch, $21,813; Mr. Hawley, $13,228; Mr. Van Hoesen, $18,000.

These estimates have been carefully considered and it is believed that Mr. Van Hoesen's estimate of $18,000 is a fair and reasonable one and it will be used for the purposes of this proceeding.

It appears that the sum of $3,000 is ample as an annuity to be accumulated in fund for the replacement of properties worn out in the public service.

The gross operating revenue for the year 1920 was $11,844.64 and for 1921 was $17,778.94. It is apparent that the present rate schedule does not yield an adequate revenue.

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The rate schedule established in the order following is designed to yield maintenance and operation expense, replacement annuity, and a sum for interest on the investment which is reasonable under existing conditions.

ORDER.

Haines Canyon Water Company having made application as entitled above, a public hearing having been held and the matter having been submitted for decision:

It is hereby found as a fact that the rates now charged by Haines Canyon Water Comany for water delivered to consumers in and in the vicinity of Tujunga, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact, and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Haines Canyon Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the effective date of this order, the following schedule of rates to be charged for water delivered to its public utility consumers in and in the vicinity of Tujunga, subsequent to August 31, 1922:

MONTHLY MINIMUM CHARGES.

⅝-inch meter	$1 25
¾-inch meter	1 50
1 -inch meter	2 00
1½-inch meter	2 50
2 -inch meter	3 00
3 -inch meter	4 00
4 -inch meter	5 00

MONTHLY CHARGES FOR WATER CONSUMED.

From 0 to 400 cubic feet, per 100 cubic feet	$0 3125
From 400 to 1,000 cubic feet, per 100 cubic feet	25
From 1,000 to 5,000 cubic feet, per 100 cubic feet	20
From 5,000 to 10,000 cubic feet, per 100 cubic feet	12
All in excess of 10,000 cubic feet, per 100 cubic feet	06

It is hereby further ordered, that Haines Canyon Water Company be and it is hereby directed to file with this Commission within thirty (30) days from the effective date of this order, rules and regulations to govern the distribution of water to its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

It is hereby further ordered, that the effective date of this order shall be September 10, 1922.

Dated at San Francisco, California, this twenty-third day of August, 1922.

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DECISION No. 10899.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE AND OPERATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1660.

Decided August 23, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9840 in the above entitled matter, this Commission provided with reference to Schedules Nos. 1, 2 and 5 of Coast Counties Gas and Electric Company, that such rates would be subject to increase or decrease upon approval of the Railroad Commission on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.65 per barrel in Santa Cruz and $1.73 per barrel in Watsonville; and

Whereas, Coast Counties Gas and Electric Company having heretofore filed with this Commission an affidavit that the price paid for oil had been reduced by 25 cents per barrel and the Commission having in consequence in Decision No. 10762 ordered reductions of 8 cents per 1000 cubic feet; and

Whereas, Coast Counties Gas and Electric Company now makes affidavit that on August 8, 1922, the price paid for oil was reduced to $1.15 per barrel in Santa Cruz and $1.23 per barrel in Watsonville, this being a further reduction of 25 cents per barrel and a total reduction of 50 cents per barrel from the base prices upon which rates were established in Decision No. 9840;

It is hereby ordered, that the rates set forth in Decision No. 9840, in Case No. 1660, designated as Schedules Nos. 1, 2 and 5, be and they are hereby reduced by fifteen (15) cents per 1000 cubic feet, effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of seven (7) cents per 1000 cubic feet.

It is hereby further ordered, that Coast Counties Gas and Electric Company file with the Commission, or or before September 8, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-third day of August, 1922.

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DECISION No. 10900.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7488.

Decided August 23, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

The California-Oregon Power Company reports that it has on hand an unexpended balance of $66,755.23 obtained from the sale of the $1,000,000 of Series "B" first and refunding mortgage bonds which were authorized to be issued and sold by Decision No. 10009, dated January 21, 1922. The company asks permission to use this money to finance, in part, the cost of extensions, additions and betterments to its plant and properties made during the month of June, 1922. These expenditures are reported as $196,070.56 and are shown in some detail in Exhibit "A" attached to the third supplemental petition filed in the above entitled matter.

The Railroad Commission has given consideration to applicant's request and believes it should be granted, as herein provided; therefore,

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to use not exceeding $66,755.23 of the proceeds obtained from the sale of the Series "B" bonds authorized by Decision No. 10009, dated January 21, 1922, as amended, to finance, in part, the expenditures for capital purposes made during the month of June, 1922, and reported in Exhibit "A" attached to the third supplemental petition in this proceeding.

It is hereby further ordered, that the order in Decision No. 10009, dated January 21, 1922, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-third day of August, 1922.

DECISION No. 10901.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF MODESTO GAS COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1662.

Decided August 23, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9839 in the above entitled matter, this Commission provided with reference to the rates therein established that such

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rates would be subject to increase or decrease upon the basis of 2.6 cents per 1000 cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price of $2 per barrel, upon approval of the Railroad Commission; and

Whereas, Modesto Gas Company has heretofore filed with this Commission affidavit that the price paid for oil has been reduced by 43 cents per barrel, and the Commission having in consequence in Decision No. 10785 ordered reductions totaling 11 cents per 1000 cubic feet; and

Whereas, Modesto Gas Company now makes affidavit that the price paid for oil has been reduced to $1.32 per barrel, this being a further decrease of 25 cents and a total decrease of 68 cents per barrel from the price on which rates were established in Decision No. 9839;

It is hereby ordered, that the rates set forth in Decision No. 9839, in Case No. 1662, designated as Schedules A and B, be and they are hereby reduced by 17 cents per 1000 cubic feet effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of 6 cents per 1000 cubic feet.

It is hereby further ordered, that Modesto Gas Company file with the Commission, on or before September 9, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-third day of August, 1922.

DECISION No. 10902.

IN THE MATTER OF THE INVESTIGATION OF GAS RATES, SERVICE AND OPERATIONS OF CONTRA COSTA GAS COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1653.

Decided August 23, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9725 in the above entitled matter, this Commission provided with reference to Schedules Nos. 1 and 3 therein established that such rates, upon approval of the Railroad Commission, would be subject to increase or decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the price of oil above or below the price of $1.64 per barrel; and

Whereas, Contra Costa Gas Company having heretofore filed with this Commission affidavits that the price paid for oil has been reduced by a total of 33 cents per barrel and the Commission having in consequence, in Decisions Nos. 9909 and 10796, ordered reductions totaling 10 cents per 1000 cubic feet; and

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Whereas, Contra Costa Gas Company now makes affidavit that on August 9, 1922, the price of oil at Pittsburg was reduced to $1.06 per barrel, this being a further decrease of 25 cents and a total decrease of 58 cents per barrel from the base price upon which rates were established in Decision No. 9725;

It is hereby ordered, that the rates set forth in Decision No. 9725, in Case No. 1653, designated as Schedules Nos. 1 and 3, be and they are hereby reduced by 17 cents per 1000 cubic feet, effective for all regular meter readings taken on and after September 9, 1922, this being a further reduction of 7 cents per 1000 cubic feet.

It is hereby further ordered, that Contra Costa Gas Company file with the Commission, on or before September 9, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-third day of August, 1922.

DECISION No. 10904.

IN THE MATTER OF THE APPLICATION OF E. H. SHULL FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT TRUCK SERVICE BETWEEN LOS ANGELES AND OAKLAND, SAN FRANCISCO AND BERKELEY AND CERTAIN INTERMEDIATE POINTS.

Application No. 7345.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK SERVICE FOR TRANSPORTATION OF CERTAIN PERSONAL PROPERTY BETWEEN SAN FRANCISCO AND LOS ANGELES AND LOS ANGELES AND SAN FRANCISCO AND INTERMEDIATE POINTS.

Application No. 7376.

Decided August 24, 1922.

Milton Marks, for Applicants.
L. N. Bradshaw, for Southern Pacific Company, Protestant.
Edward Stern, for American Railway Express Company, Protestant.
E. T. Lucey, for Atchison, Topeka and Santa Fe Railway Company, Protestant.
Harry N. Blair, for San Joaquin Valley Transportation Company, Protestant.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

E. H. Shull, applicant in Application No. 7345, has petitioned the Railroad Commission for a modification of the provisions of Decision No. 10063 on said application, as decided February 8, 1922, in so far as said decision provided a basis of rates on crated household goods, trunks and personal effects, and ordinary and grand pianos, and seeks authority for the establishment of a basic rate of $4.40 per cwt. between Los

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Angeles and San Francisco on all commodities authorized to be transported under the provisions of Decision No. 10063 hereinabove referred to, with a graduated scale of rates to intermediate points predicated on mileage traversed and the proposed rate between the terminals of Los Angeles and San Francisco.

California Highway Express, a corporation, applicant in Application No. 7375, has petitioned the Railroad Commission for a modfication of the provisions of Decision No. 10063 on said application, as decided February 8, 1922, in so far as said decision provided a basis of rates on crated household goods, trunks and personal effects, and ordinary and grand pianos, and seeks authority for the establishment of a basic rate of $4.40 per cwt. between Los Angeles and San Francisco on all commodities authorized to be transported under the provisions of Decision No. 10063 hereinabove referred to, with a graduated scale of rates to intermediate points predicated on mileage traversed and the proposed rate between the terminals of Los Angeles and San Francisco.

A public hearing on the petitions for modification of Decision No. 10063 was conducted by Examiner Handford at San Francisco, at which time the matters were consolidated for the purposes of receiving evidence and for decision, were duly submitted and are now ready for decision.

Chester A. Nelson, a witness for applicant, California Highway Express, testified that the cost of operation for trucks used by his company averaged 37½ cents per mile or a total cost of $157.50 to operate a truck between Los Angeles and San Francisco. On this basis, a capacity load between Los Angeles and San Francisco at the rate allowed by Decision No. 10063 for crated household goods ($2.64 per cwt.), would return a revenue of $138.50, or a net loss of $19. The average load carried is approximately 70 per cent of the truck capacity and assuming 3675 pounds to be the average load, if it consisted entirely of crated household goods at the rate of $2.64 per cwt., it would return a revenue of $97.02 at an operating cost of $157.50, resulting in a deficit of $60.48. If the proposed rate of $4.40 per cwt. were to be allowed, and assuming the average load to be 70 per cent of the truck capacity or approximately 3675 pounds, a shipment moving between San Francisco and Los Angeles would return a revenue of $161.70 against an operating cost of 157.50 or a profit of $4.20. It appears, however, that but 10 per cent of the household goods offered for movement over the line represented by this witness are crated, therefore the rate of $4.40 per cwt. as already authorized for shipments of uncrated household goods between Los Angeles and San Francisco by the provisions of Decision No. 10063 is now effective for the applicant on approximately 90 per cent of the household goods which are handled.

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E. H. Shull, a witness for applicants, testified that his trucks could care for a maximum capacity of 6000 pounds of household goods if uncrated and but 4200 pounds if crated, the larger capacity if uncrated, being due to his ability to more compactly stow uncrated household goods when loading on trucks. This witness estimates his operating cost at 30 cents per car mile or a cost per trip between San Francisco and Los Angeles of $126. Based on this operating cost the return on a capacity load of 6000 pounds of uncrated household goods at the rate of $4.40 per cwt. (as authorized by Decision No. 10063) would return a gross revenue of $264, or a profit of $138; and on a capacity load of 4200 pounds of uncrated household goods at the rate of $2.64 per cwt. (as authorized by Decision No. 10063) would return a gross revenue of $110.88 or a net loss of $15.12. This witness testified that his trucks carried an average of 75 per cent of their maximum capacity, and using such figure a load of crated household goods transported between San Francisco and Los Angeles would produce a net loss of $42.84 at the present authorized rates and a net profit of $12.60 at the proposed rate.

As to the matter of rate on pianos, it was testified that the average weight of an upright piano was 650 pounds and that of a grand piano 900 pounds. The rates for transportation of pianos, as authorized under Decision No. 10063 between San Francisco and Los Angeles, were $15 each for uprights and $17.50 each for grand pianos. Under the proposed rate of $4.40 per cwt. the rate for transportation of pianos of the average weight above stated would be for uprights $28.60 and for grand pianos $39.60.

It appears from the evidence that in the consideration of the contractual relations between the applicants and the California Transfer and Storage Association, as referred to in the opinion preceding the order in Decision No. 10063, that the Commission was not then advised of the fact that no commission was paid by applicants for the securing of business by the members of the California Transfer and Storage Association when such business consisted of crated furniture or household goods, trunks and personal effects, or pianos, the commission being paid only upon the uncrated household goods and furniture. In actual practice it has been found difficult to segregate the various classes of commodities which applicants herein are authorized to transport and to readily secure accurate weights as applicable to the several classes. It also appears that the volume of crated furniture and household goods, trunks and personal effects, and pianos is not material, being, in the case of either applicant, not over 20 per cent of the business transacted and the granting of the application and placing of all the authorized commodities on a flat rate of $4.40 per cwt. will not alone

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eliminate the handling of such commodities, upon which the increase is effective, at a loss, but will facilitate the service of both applicants in that it will be unnecessary to separately weigh the various articles in order to properly classify same under the rate structure as hereinbefore authorized under Decision No. 10063.

Although protestants were present and represented by counsel, there was no evidence offered in protest against the granting of the applications.

ORDER.

A public hearing having been held in the above entitled proceedings, the matters having been consolidated for the purpose of receiving evidence and decision, and having been duly submitted and the Commission being fully advised;

It is hereby ordered, that the portion of the Commission's decision on Applications Nos. 7345 and 7376 (Decision No. 10063 decided February 8, 1922), reading as follows:

"The rates herein authorized to be published by applicants herein for the service proposed to be rendered shall be as follows:

Between San Francisco and Los Angeles.

Household goods, etc.—uncrated	$4 40 per cwt.
Household goods, etc.—crated	2 64 per cwt.
Trunks and personal effects	2 00 per cwt.
Pianos—ordinary	15 00 each
Pianos—grand	17 00 each."

be and the same hereby is amended as follows:

Between San Francisco and Los Angeles.

Household goods, etc.—crated or uncrated, trunks and personal effects, pianos—ordinary and grand	$4 40 per cwt.

In all other respects the conditions of the former order in this proceeding (Decision No. 10063) remain in full force and effect.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10905.

IN THE MATTER OF THE APPLICATION OF KERMAN TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 7807.

Decided August 24, 1922.

CERTIFICATE—TELEPHONE UTILITY—UNAUTHORIZED EXTENSION.—It is held that extension of service without a certificate into territory partly served by another utility is unauthorized.

Max E. Socha, for Applicant.
F. L. McNally, for The Pacific Telephone and Telegraph Company.
A. L. Baker, for various people of Biola and vicinity, Protestants.

BY THE COMMISSION.

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OPINION.

Kerman Telephone Company, applicant in this proceeding owns and operates a telephone exchange in the town of Kerman, furnishing the town and adjacent territory with telephone service. It having come to the attention of the Commission that applicant has extended its lines to the town of Biola and vicinity, a territory theretofore served by another utility of like character and not theretofore served by it, without first having sought and obtained from the Commission a certificate declaring that public convenience and necessity require such extension of its service, its attention was directed to the necessity of obtaining such certificate. This application has accordingly been filed pursuant to the provisions of section 50 of the Public Utilities Act, requiring such certificate and the matter was set down for hearing in the city of Fresno before Examiner Westover.

Biola is situate about 5½ or 6 miles, airline, from the town of Kerman and about 14 miles from the city of Fresno. Service is provided in this territory by The Pacific Telephone and Telegraph Company from its Fresno exchange, it having provided service prior to the entrance of applicant with its lines. It appears from the testimony of witnesses that applicant first extended service to Biola during or about the year 1915 after the alleged refusal of The Pacific Telephone and Telegraph Company to make further extensions of its service and that applicant has added to its service from time to time until, at the present time, it is serving about 12 patrons in Biola and contiguous territory. It appears further that on September 3, 1921, this Commission issued its Decision No. 9457, in Application No. 5793, requiring applicant to provide certain changes in its existing lines for the purpose of improving its service. A portion of the changes referred to affected its Biola service and, in proceeding to comply with the order of the Commission applicant also proceeded to provide additional lines to take on new business. It now urges that it proceeded in good faith to serve the Biola territory and that the Commission, by the issuance of its order requiring it to improve its service, recognized its right to occupy the territory in question.

The Commission's decision requiring the changes in existing lines here referred to was issued after a hearing held on January 14, 1921, upon the application of Kerman Telephone Company for authority to increase its then existing rates. The decision, after referring to complaint which was made at the hearing regarding over-crowded lines, provides, among other things, for relieving the overload. The attention of the Commission was not called at the hearing in that proceeding to the fact that applicant was not then lawfully operating within the Biola territory and in the absence of such notice it was assumed that it

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was operating within the law. Before applicant constructed the additional lines which it has since provided to take on new business, however, a question arose regarding applicant's right to operate in this territory without a certificate of public convenience and necessity and prior to the issuance of the decision on which applicant now relies, applicant was advised to await the Commission's decision with reference to the entire situation before making further extensions into this particular territory. Decision No. 9457 of September 3, 1921, provided that the changes referred to should be completed within 90 days from the date thereof. Applicant admits that the work necessary to compliance with that provision was not started until the 90 days' time limit had expired and that it did not apply for an extension of time within which to complete the necessary work. It admits further that when the work was finally undertaken it proceeded to construct the further extensions previously referred to, after being advised on November 28, 1921, to defer the construction of further extensions until the Commission should have determined whether or not such construction should be authorized under section 50 of the Public Utilities Act. Therefore, it can not now be urged either that applicant was not aware, before the extensions were constructed, of the necessity of first obtaining the authorization of the Commission to make them, or that the Commission, by its order of September 3, 1921, recognized applicant's right to serve this territory.

The Pacific Telephone and Telegraph Company, which served this territory prior to the first extension of service by applicant, does not protest the issuance of a certificate to applicant permitting it to serve this territory. It does, however, deny that it has refused to make further extensions of its service and states that it is willing to establish an exchange in Biola and, in that event, to reimburse applicant for such investment as it may have made in this territory. The issuance of such permit to applicant is protested, however, in a petition signed by 79 business firms and residents of Biola and vicinity in which petition The Pacific Telephone and Telegraph Company is asked to provide service through the establishment of a local exchange. It appears from the testimony of protestants that more adequate and satisfactory service can be provided by a local exchange established by The Pacific Telephone and Telegraph Company than is the present service of applicant or than the service which applicant proposes to provide would be, and that the cost of service provided by such local exchange of the Pacific Company will be less than the cost of the service which applicant proposes to provide.

If it were the plan of applicant to establish a local exchange in Biola at this time, service could no doubt be provided by applicant at rates as low as those which might be offered by The Pacific Telephone and Telegraph Company. It is applicant's plan, however, to serve this territory

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by lines extending from its Kerman exchange. Under such plan applicant's rates, except for suburban service, to which protestants object as being inadequate and unsatisfactory, would be very considerably higher than the Pacific Company's rates. It is also urged by protestants, and it is perhaps a fact, that long distance toll service if provided from a local Pacific Company exchange, by reason of being more direct, would be more satisfactory that such service provided by applicant from a local exchange would be. Since it is not the plan of applicant, however, to establish a local exchange in Biola, its toll service would be provided from its Kerman exchange and there is no good reason why such service should not be as satisfactory as similar service from a local Pacific Company exchange located in Biola.

While applicant may have extended service into this territory in the first instance during the year 1915 in ignorance of the law governing the construction of extensions by public utilities in such cases, it clearly appears that further extensions were constructed during the year 1922 without first having been authorized by the Commission and after it was notified that such authorization is necessary.

After a careful review of all of the evidence and circumstances in this case, the Commission has reached the following conclusions: The territory in question is within the district now partially served by the Pacific Company. The Kerman Company, on the other hand, has no certificate of public convenience and necessity permitting the extension of its lines into this territory. Such construction as it has already installed is unauthorized. Furthermore, it is apparent that public necessity and convenience requires that any extension of service required in this territory should be made by the Pacific Company which by reason of its larger facilities is able to render the adequate service to which the public is entitled.

We are of the opinion, therefore, that the Kerman Company should not be permitted to extend its lines into this territory but that the Pacific Company should be required to do so. The Pacific Company has not only expressed its willingness to extend its lines and to install a local exchange necessary to serve this community but has also expressed its willingness to reimburse the Kerman Company for expenditures already made by that company for the partial extension of its lines into the territory, in so far as these lines may be capable of being used by the Pacific Company. The Commission will expect this agreement to be carried out. If within a reasonable time, not to exceed sixty days, the Commission is not notified by the Pacific Company that it is proceeding in good faith to take over the usable lines of the Kerman Company and to make the extensions contemplated, a formal proceeding will be instituted on the Commission's own motion to require such extensions and improvements as may be necessary to render adequate service.

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ORDER.

Application having been filed by Kerman Telephone Company for a certificate of public convenience and necessity authorizing the extension of service to the town of Biola and adjacent territory in Fresno County, a public hearing having been held and the matter being submitted:

The Railroad Commission hereby finds that public convenience and necessity do not require the establishment of service and the construction of extensions of lines to or within the town of Biola and territory contiguous thereto by the Kerman Telephone Company, and basing its order on said finding and upon further finding of facts and statements contained in the opinion preceding this order;

It is hereby ordered, that the application of the Kerman Telephone Company herein for a certificate of public convenience and necessity be and the same is hereby denied.

It is hereby further ordered, that Kerman Telephone Company shall not discontinue any service now provided by it within the territory herein involved until notified and authorized so to do by supplemental order of the Commission in this proceeding.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10906.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR PERMISSION TO PURCHASE ALL OF THE PHYSICAL PROPERTIES OF THE POINT LOMA RAILROAD COMPANY, A CORPORATION, AND TO ISSUE AND SELL ONE HUNDRED THOUSAND DOLLARS OF ITS CAPITAL STOCK AT PAR IN PART PAYMENT THEREFOR; AND AUTHORIZING POINT LOMA RAILROAD COMPANY TO SELL SAID PROPERTIES.

Application No. 8109.

Decided August 24, 1922.

Read G. Dilworth, for Applicants.

ROWELL, *Commissioner.*

OPINION.

In this application Point Loma Railroad Company, hereinafter sometimes mentioned as "Point Loma Company," asks permission to transfer all of its properties, free and clear of all liens and encumbrances, to San Diego Electric Railway Company for $30,000 in cash and $100,000 in stock. San Diego Electric Railway Company, hereinafter sometimes mentioned as "San Diego Company," asks permission to acquire such properties and to issue and deliver, as part payment, $100,000 of its common capital stock.

The record shows that Point Loma Company was organized on or about July 7, 1908, with an authorized capital stock of $250,000, divided

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into 2500 shares of the par value of $100 each. Of the authorized stock, $66,000 is reported outstanding, all of which, excepting directors' shares, is held by J. D. and A. B. Spreckels Securities Company. Point Loma Company owns no rolling stock and has leased its properties, consisting of 8.42 miles of sixty-pound standard gauge track extending from San Diego to Ocean Beach and from Roseville Junction to La Playa, to San Diego Company at a rental of ten cents per car mile, under the terms of an agreement approved by the Railroad Commission in Decision No. 6904, decided December 5, 1919 (Vol. 17, Opinions and Orders of the Railroad Commission of California, page 552).

It appears that the transfer of these properties will be made as of June 30, 1922. On that date Point Loma Company reported its assets and liabilities as follows:

ASSETS.

Investments:		
Road and equipment	$198,782 14	
Miscellaneous physical properties	559 20	
Total investments		$199,341 34
Current Assets:		
Cash	$1,664 89	
Accounts receivable	1,880 31	
Materials and supplies	3,298 06	
Total current assets		6,843 26
Unadjusted Debits:		
Discount on funded debt		15,949 14
Total assets		$222,133 74

LIABILITIES.

Capital stock		$66,000 00
Funded debt		130,000 00
Current Liabilities:		
Audited accounts and wages payable	$45 00	
Matured interest, dividends and rents unpaid	93,600 00	
Accrued interest, dividends and rents payable	1,950 00	
Total current liabilities		95,595 00
Unadjusted Credits:		
Accrued depreciation—road and equipment	$75,871 04	
Reserve for amortization of franchises	236 54	
Total unadjusted credits		76,107 58
Corporate surplus, debit balance		145,568 84
Total liabilities		$222,133 74

The outstanding bonded indebtedness of $130,000 is held by the J. D. and A. B. Spreckels Securities Company to whom there is also owing the amount of $93,600, representing matured and unpaid interest on funded debt. It is reported in the petition that the J. D. and A. B. Spreckels Securities Company, upon the receipt of $30,000 in cash and

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$100,000 in stock of San Diego Company, will cancel this unpaid interest charge of $93,600 and will return to Point Loma Company for cancellation, the $130,000 of bonds, so that the purchasing company will acquire the properties free and clear of all liens and encumbrances. The remaining current liabilities will be paid through the current assets.

Testimony herein shows that the agreed purchase price, $130,000, is based on an estimate of the present value of the physical properties.

San Diego Company, like Point Loma Company, is also controlled, through stock ownership, by the J. D. and A. B. Spreckels Securities Company, who own all of its outstanding stock and bonds. As of June 30, 1922, these are shown to consist of $1,250,000 of common stock and $3,129,000 general first lien 5 per cent forty-year sinking fund gold bonds due January 1, 1955.

The proposed transfer of properties will not result in any change of the management of the properties of Point Loma Railroad Company. The purpose of this application is to place under the same ownership properties which are now operated under lease arrangements. It is of record that San Diego Company plans to expend $20,000 in the immediate future for reconstruction work on the properties it now desires to acquire. To obtain this $20,000 and the $30,000 cash payment involved in the pending application, San Diego Company has arranged to borrow $50,000 from the J. D. and A. B. Spreckels Securities Company on open account, with interest at 6 per cent per annum.

I herewith submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for permission to transfer properties and to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purpose specified herein;

It is hereby ordered, that Point Loma Railroad Company be and it is hereby authorized to transfer all of its properties referred to in this application to San Diego Electric Railway Company, free and clear of all liens and encumbrances, for $30,000 in cash and $100,000 in stock of the San Diego Electric Railway Company.

It is hereby further ordered, that San Diego Electric Railway Company be and it is hereby authorized to acquire such properties and to issue to Point Loma Railroad Company, in part payment thereof, $100,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

1. The price at which the properties of Point Loma Railroad Company are herein authorized to be transferred shall not hereafter be urged

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before this Commission, or other court or public body, as a measure of the value of the properties in fixing rates or for any purpose other than the transfer herein authorized.

2. San Diego Electric Railway Company shall file with the Railroad Commission within thirty days after its execution a certified copy of the deed under which it obtains and holds title to the properties herein authorized to be transferred.

3. San Diego Electric Railway Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to transfer properties and issue stock shall apply only to such transfer of properties and issue of stock as may be made on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10907.

IN THE MATTER OF THE APPLICATION OF GERBER TERMINAL TOWNSITE COMPANY, A CORPORATION, AND H. K. SEARS, FOR AN ORDER AUTHORIZING THE SALE OF PROPERTIES USED TO SUPPLY WATER.

Application No. 7875.

Decided August 24, 1922.

George, Hinsdale and Pigott, by *John T. Pigott*, for Gerber Terminal Townsite Company.

H. K. Sears, in propria persona.

BY THE COMMISSION.

OPINION.

In this application, as amended, the Railroad Commission is asked to make its order authorizing Gerber Terminal Townsite Company to sell and convey its water properties and business, located at Gerber, Tehama County, to H. K. Sears, such sale and conveyance to be made in accordance with the terms and conditions of the contract of sale filed with the petition as Exhibit "C." The Commission is also asked to ratify, approve and confirm the transfers of property heretofore made by Tehama Investment Company and E. A. Brown without authority from the Commission.

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A public hearing was held before Examiner Satterwhite at Red Bluff on June 29, 1922. Since the hearing, additional information has been filed and the matter is now ready for decision.

Gerber Terminal Townsite Company is engaged primarily in the realty business. Incidental thereto, it has acquired and is operating a water system in the town of Gerber, serving about 100 consumers. It has reported its gross revenues from water operations at $2,116 in 1921, $1,917.60 in 1920 and $1,614.15 in 1919. At the same time, operating expenses were reported as $1,821.08 in 1921, $1,979.94 in 1920, and $1,614.20 in 1919.

The company now proposes to dispose of its utility water properties, which were installed and constructed at a reported cost of $20,000, to H. K. Sears for $15,000. Of this latter amount, H. K. Sears has agreed to pay $6,000 upon the execution of the agreement of sale and purchase, $1,000 on or before three years after date of said agreement, $1,000 on or before four years after date, and $7,000 on or before five years after date. Deferred payments bear interest at the rate of 6 per cent per annum.

At the hearing it was developed that the water properties were installed in 1911 by Tehama Investment Company to assist in the sale of real estate. Tehama Investment Company operated the system until December 30, 1915, on which date it was transferred to E. A. Brown, as trustee. Thereafter, on October 7, 1916, E. A. Brown transferred the properties to Gerber Terminal Townsite Company, by whom they have since been owned and operated. Neither the transfer from Tehama Investment Company to E. A. Brown nor from E. A. Brown to Gerber Terminal Townsite Company was authorized by this Commission. It appears, however, that such transfers were made through inadvertance and with no intent to evade the provisions of the Public Utilities Act. The Commission is now asked to ratify these conveyances made without its order.

The transfer of properties made by Tehama Investment Company on December 30, 1915, and that by E. A. Brown on October 7, 1916, are void under the terms of the Public Utilities Act. As the Commission can not validate or approve such unauthorized transfers after they have been made, it will be necessary for new instruments of conveyance to be executed.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the sale and conveyance of properties and approving the transfers of properties heretofore made without an order of the Commission, a public hearing having been held and the Commission being of the opinion that the application should be granted as herein provided;

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It is hereby ordered, that Tehama Investment Company be and it is hereby authorized to transfer to E. A. Brown and E. A. Brown be and he is hereby authorized to transfer to Gerber Terminal Townsite Company the properties described in this application and referred to in the foregoing opinion.

It is hereby further ordered, that Gerber Terminal Townsite Company be and it is hereby authorized to sell and convey and H. K. Sears be and he is hereby authorized to receive and acquire the properties referred to in the foregoing opinion, such sale and conveyance to be in accordance with the contract of sale filed in this proceeding as "Exhibit C."

The authority herein granted is subject to the following conditions:

1. Gerber Terminal Townsite Company within ten days after relinquishing control and possession of the properties herein authorized to be transferred, shall file with the Commission a verified statement indicating the exact date upon which it relinquished such control and possession.

2. The consideration to be paid for the properties herein authorized to be transferred shall not be urged before this Commission or other court of public body as a measure of value in fixing rates, or for any purpose other than the transfer herein authorized.

3. The authority herein granted shall not become effective until H. K. Sears has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10908.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF ONE MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND FOUR HUNDRED SIXTEEN DOLLARS, AND TO SELL SAME.

Application No. 7531.

Decided August 24, 1922.

W. S. McFarland, for Applicant.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 10101, dated February 17, 1922, authorized Southern Counties Gas Company of California to issue $1,498,416 face value of first mortgage 5½ per cent bonds due May 1, 1936, subject to the condition, among others, that

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$1,132,416 of such bonds be not sold or otherwise disposed of by applicant, except as authorized by the Commission; and

Whereas, the Commission by its first supplemental order in the above entitled matter, Decision No. 10360, dated April 25, 1922, authorized applicant to sell $350,000 of the bonds authorized by Decision No. 10101 at not less than 88 per cent of face value for the purpose of financing construction expenditures made prior to March 31, 1922; and

Whereas, applicant in its second supplemental petition in this proceeding reports that between April 1 and June 30, 1922, it expended $425,603.99 for permanent extensions, additions and betterments to its existing plants and properties which has not been financed through the sale of bonds; and

Whereas, applicant asks permission to sell $340,000 of the said $1,132,416 of bonds, at not less than 90 per cent of face value, plus accrued interest, to reimburse its treasury, in part, on account of these reported expenditures, which are described in some detail in its Exhibit "1" filed in connection with its second supplemental petition;

And a public hearing having been held before Examiner Williams in Los Angeles, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such sale is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to sell, at not less than 90 per cent of their face value, plus accrued interest, $340,000 of the first mortgage 5½ per cent bonds which the Commission authorized to be issued by Decision No. 10101, dated February 17, 1922, and to use the proceeds to finance, in part, the cost of extensions, additions and betterments installed prior to June 30, 1922, and referred to in this order, and through such financing pay current indebtedness.

It is hereby further ordered, that the order in Decision No. 10101, dated February 17, 1922, shall remain in full force and effect, except as modified by this second supplemetnal order.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

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DECISION No. 10909.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE METHODS AND PRACTICES OF JAMES W. GRAY, DOING BUSINESS UNDER THE FICTITIOUS NAME OF COASTSIDE TRANSPORTATION COMPANY, IN THE OPERATION OF AN AUTOMOBILE STAGE LINE AS A COMMON CARRIER OF PASSENGERS AND FREIGHT BETWEEN SAN FRANCISCO AND PESCADERO, CALIFORNIA.

Case No. 1728.

Decided August 24, 1922.

H. A. Encell and *J. A. Miller*, for James W. Gray, Respondent.
H. A. Loveland and *Fred C. Peterson*, for Neil Forrest, doing business as Red Star Stage Line.

BY THE COMMISSION.

OPINION.

The Commission having received complaints, both written and verbal, that the stage line operated by James W. Gray as a common carrier of freight and passengers between San Francisco and Pescadero was being operated other than in accordance with the rules and regulations of the Commission, that time schedules were not being observed, and that the service was unsatisfactory and inadequate; a proceeding was initiated by the Commission and on March 8, 1922, on its own motion, an order was issued directing said James W. Gray to appear and show cause why the certificate of public convenience and necessity heretofore issued under date January 8, 1921 (Decision No. 8523 on Application No. 6080), should not be revoked and annulled.

A public hearing on this matter was conducted by Examiner Handford at San Francisco on March 30, 1922, at which time the matter was duly submitted.

The evidence in this proceeding shows that respondent Gray has not operated his passenger service in accordance with schedules as heretofore filed with the Railroad Commission and that during the month of February, 1922, fifty scheduled runs were not operated out of a total of eighty runs as appearing on an exhibit filed by respondent and covering the period from February 1 to 20, 1922, inclusive. Two runs were operated over but a portion of the scheduled route.

No permission was secured from the Railroad Commission for the suspension of scheduled service nor was any advice given this Commission that the runs had not been or could not be protected. It is the present contention of respondent that the runs could not be protected due to his inability to secure drivers to replace those incapacitated by illness but no evidence was given indicating that any reasonable effort was made to secure extra drivers or to keep operative the service as covered by advertised schedules.

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As to the freight operation it appears that this portion of the business has been leased by respondent to other parties on a basis expressly prohibited by the regulations of the Railroad Commission as contained in its Decision No. 5318 on Case No. 1202 as decided April 17, 1918. This decision prohibits the leasing of equipment by an authorized operator on a percentage basis or on any basis where the amount paid as rental includes the services of a driver or operator. Both classes of prohibited practices have been followed by the respondent herein as evidenced by the provisions of a contract between respondent and L. A. Mattei under date April 29, 1921, by the terms of which contract a truck is leased at a flat rate per round trip, such rate including the services of a driver or operator, and by the testimony of E. Serretto that he was operating freight trucks on the route of respondent on a percentage basis, the drivers thereof being directly employed by and paid by said Serretto.

Evidence was also given that respondent in the operation of his passenger service did not adhere to scheduled departing time at intermediate points and frequently left such intermediate points so far in advance of the scheduled leaving time as to make the service unreliable and not to be depended upon by his prospective patrons.

After careful consideration of the evidence in this proceeding and of the fact that this Commission has frequently endeavored to aid the respondent in his duty to the public under the obligation imposed upon him by the certificate heretofore granted and without receiving proper response to its letters of inquiry or compliance with instructions from the Commission's authorized representatives, we are of the opinion and hereby find as a fact that the character of service heretofore rendered by respondent, James W. Gray, justifies the revocation and cancellation of the operative rights for the operation of an automobile stage line as a common carrier of passengers and freight between San Francisco and Pescadero as heretofore authorized by this Commission's Decision No. 8523 on Application No. 6080 as decided January 8, 1921.

ORDER.

A public hearing having been held on the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that, for good cause shown, the certificate of public convenience and necessity as heretofore granted by the provisions of this Commission's Decision No. 8523 on Application No. 6080 as decided January 8, 1921, to James W. Gray, operating under the fictitious name of Coastside Transportation Company, for the operation of an automobile stage line as a common carrier of passengers and freight

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between San Francisco and Pescadero and intermediate points, be and the same hereby is revoked and canceled.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10910.

IN THE MATTER OF THE APPLICATION OF FAIR OAKS ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS BY SAID CORPORATION.

Application No. 7574.

Decided August 24, 1922.

Elliott and Atkinson, by *F. F. Atkinson*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Fair Oaks Electric Company asks permission to execute a deed of trust and to issue and sell $10,000 face value of first mortgage bonds.

A public hearing was held before Examiner Satterwhite in San Francisco on March 24, 1922. On July 14, 1922, the company filed a copy of its proposed trust deed and the matter is now ready for decision.

Fair Oaks Electric Company was incorporated on or about January 23, 1922, for the purpose of acquiring and operating the electric distributing system owned by R. A. Rose at Fairoaks, Sacramento County. By Decision No. 10064, dated February 8, 1922, applicant was authorized to acquire such properties and, in consideration, to issue $10,000 of its capital stock and to assume the payment of indebtedness aggregating $6,514.51.

The company now proposes to execute a deed of trust on all its properties to secure the payment of $10,000 of first mortgage gold bonds. These bonds, all of which applicant now asks permission to issue, are dated July 1, 1922, bear interest at 7 per cent per annum, mature serially in equal annual amounts of $500 on the first day of July of each of the years 1927 to 1946, both inclusive, and, at the option of the company are callable on any interest payment date on and after July 1, 1927, upon the payment of principal, accrued interest and a premium of one per cent of the principal.

While applicant asks permission to issue the entire authorized amount, it proposes at this time to sell only $7,000 of bonds. The remaining $3,000 of bonds will be sold or otherwise disposed of at such time and for such purposes as the Commission may indicate in a supplemental order.

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The company proposes to sell the $7,000 of bonds at face value and to use the proceeds to refund outstanding indebtedness and to pay for additions and betterments. By Decision No. 9630, dated October 21, 1921, in Application No. 7182, the Commission authorized R. A. Rose to execute a mortgage and to issue $10,000 of 7 per cent 10-year notes. It was planned to issue only $7,000 of notes at that time and to use approximately $6,580 of the proceeds to pay outstanding indebtedness and approximately $420 to install meters on services not at that time supplied with them. The testimony in Application No. 7182 shows that the indebtedness to be refunded represents money invested in fixed capital.

It appears that none of the notes authorized by Decision No. 9630 was issued, for the reason that shortly thereafter the system was transferred to applicant and that it has been found necessary to issue bonds, rather than notes, to refund the indebtedness and to finance the cost of meters.

ORDER.

Fair Oaks Electric Company having applied to the Railroad Commission for permission to execute a mortgage or deed of trust and to issue bonds, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for by the issue of bonds herein authorized, is reasonably required for the purpose or purposes specified herein, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Fair Oaks Electric Company be and it is hereby authorized to execute a deed of trust substantially in the same form as that filed in this proceeding on July 14, 1922, and issue $10,000 of its first mortgage 7 per cent gold bonds.

The authority herein granted is subject to the following conditions:

1. Applicant may sell $7,000 of the bonds herein authorized on or before December 31, 1922, at not less than face value, plus accrued interest, and use the proceeds to refund the indebtedness and to finance the cost of capital additions to which reference is made in the foregoing opinion. The remaining $3,000 of bonds may be sold, or otherwise disposed of, only as authorized by the Commission in a supplemental order or orders in this proceeding.

2. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

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3. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $25.

4. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-fourth day of August, 1922.

DECISION No. 10912.

IN THE MATTER OF THE APPLICATION OF THE BEAR VALLEY UTILITY COMPANY FOR AUTHORITY TO SELL TWO HUNDRED SHARES OF ITS CAPITAL STOCK, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ACQUIRING OF A LONG DISTANCE TELEPHONE LINE, RIGHTS OF WAY, NECESSARY LANDS AND OFFICES, AND THE CONSTRUCTION OF TELEPHONE LINES THROUGHOUT THE VICINITY KNOWN AS BIG BEAR VALLEY, CALIFORNIA.

Application No. 7495.

Decided August 25, 1922.

BY THE COMMISSION.

ORDER DISMISSING PROCEEDING FOR MODIFICATION OF PRIOR ORDER.

It appearing that the Commission, by an order heretofore made in this proceeding, on the 22d day of June, 1922, Decision No. 10606, granted a certificate of public convenience and necessity to the Bear Valley Utility Company to exercise certain rights and privileges granted by the board of supervisors of San Bernardino County on November 21, 1921, and also granted to said Bear Valley Utility Company authority to issue and sell certain shares of its capital stock; and

It further appearing that the Commission thereafter on the 20th day of July, 1922, made its order reopening said proceedings for the purpose of determining whether or not said order of June 22, 1922, Decision No. 10606, should be rescinded, altered or amended in any particular, pursuant to which said order reopening the proceeding a public hearing was held on the 15th day of August, 1922, due notice of which was regularly served upon all the parties in said proceeding, and it appearing from a consideration of the matters submitted at said hearing and reconsideration of all matters theretofore submitted in this proceeding, that the order of June 22, 1922, Decision No. 10606, should not be rescinded, altered or amended in any particular but should be affirmed, and no good cause to the contrary being shown;

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It is hereby ordered, that the proceeding heretofore instituted by the Commission's order of July 20, 1922, reopening this proceeding be and the same is hereby dismissed and that the order heretofore made herein on the 22d day of June, 1922, Decision No. 10606, be and the same is hereby affirmed in all particulars.

Dated at San Francisco, California, this twenty-fifth day of August, 1922.

DECISION No. 10913.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE ADEQUACY OF SERVICE, THE FACILITIES FOR SERVICE, AND THE REASONABLENESS OF THE RATES, RULES AND REGULATIONS GOVERNING GAS SERVICE OF SACRAMENTO GAS COMPANY IN LODI, CALIFORNIA.

Case No. 1733.

Decided August 25, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 10600 in the above entitled matter this Commission provided with reference to the rates therein established that such rates would be subject to increase or decrease, upon approval of the Railroad Commission, on the basis of 3.2 cents per 1000 cubic feet for each 10-cent increase or decrease respectively in the cost of oil above or below the price of $1.91 per barrel; and

Whereas, Sacramento Gas Company has heretofore filed a statement with this Commission that the price paid for oil had been reduced by 25 cents per barrel and the Commission has, in consequence, in Decision No. 10744 ordered a reduction of 8 cents per 1000 cubic feet; and

Whereas, Sacramento Gas Company now makes statement that on August 8, 1922, the price paid for oil was reduced by 25 cents per barrel and that reductions in freight charges occurred in July which amount to 6 cents per barrel on oil delivered at Lodi, these amounts being a further reduction of 31 cents per barrel and a total reduction of 56 cents per barrel below the base price on which rates were established in Decision No. 10600;

It is hereby ordered, that the rates set forth in Decision No. 10600, in Case No. 1733, designated as Schedule 1, be and they are hereby reduced by 18 cents per 1000 cubic feet effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of 10 cents per 1000 cubic feet.

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It is hereby further ordered, that Sacramento Gas Company file with the Commission on or before September 8, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of August, 1922.

DECISION No. 10915.

IN THE MATTER OF THE INVESTIGATION OF THE GAS RATES, SERVICE AND OPERATIONS OF THE COAST VALLEYS GAS AND ELECTRIC COMPANY ON THE COMMISSION'S OWN MOTION.

Case No. 1611.

Decided August 25, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9397 in the above entitled matter this Commission provided with reference to rates therein established that such rates would be subject to increase or decrease, upon the approval of the Commission, on the basis of 3 cents per 1000 cubic feet for each 10-cent increase or decrease respectively, in the cost of oil above or below the price of $1.50 per barrel at Monterey and $1.87 per barrel at Salinas; and

Whereas, Coast Valleys Gas and Electric Company has heretofore filed with this Commission a statement that the price paid for oil had been reduced by 25 cents per barrel at both Monterey and Salinas, and the Commission has, in consequence, in Decision No. 10778 ordered reductions of 7 cents per 1000 cubic feet in the rates established in Decision No. 9397; and

Whereas, Coast Valleys Gas and Electric Company now has filed further statement that effective August 8, 1922, the price of oil has been further reduced by 25 cents per barrel, this being a total decrease of 50 cents per barrel from the base price on which rates were established in Decision No. 9397;

It is hereby ordered, that the rates set forth in Decision No. 9397, in Case No. 1611, designated as Schedules A and B, be and they are hereby reduced by 15 cents per 1000 cubic feet effective for all regular meter readings taken on and after September 8, 1922, this being a further reduction of 8 cents per 1000 cubic feet.

It is hereby further ordered, that Coast Valleys Gas and Electric Company file with the Commission on or before September 9, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this twenty-fifth day of August, 1922.

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DECISION No. 10916.

ATASCADERO CHAMBER OF COMMERCE, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1535.

Decided August 26, 1922.

Louis Cohen, for Complainant.
E. J. Foulds, for Defendant.

MARTIN, *Commissioner.*

OPINION.

Atascadero Chamber of Commerce in this proceeding asked that Southern Pacific Company be directed to erect a new station at Atascadero, San Luis Obispo County, California, upon the site referred to in Exhibit "A," suitable in design and adequate in facilities to serve Atascadero. In its answer defendant made a general denial of the allegations of the complaint and asked that it be dismissed.

A public hearing was held at Atascadero on May 27, 1921.

By this date defendant reversed its position, for at the hearing it stated that it had made a tentative agreement under the terms of which Southern Pacific Company would undertake at an early date to install a new station building and facilities at the site desired by the Chamber of Commerce of Atascadero and that it would, within sixty (60) days, absolutely agree with the complainant

"on satisfactory plans for a new station building, including telegraph office and offices for the freight agent, freight facilities, too, trackage in connection with it, both for freight and passengers in a new location satisfactory to them, and that when these plans are agreed to we would undertake, within thirty (30) days thereafter, to commence work and complete the work by the end of the year."

A stipulation was filed May 25, 1921, in which it was agreed that the hearing set for May 27th might be continued for sixty (60) days and in connection with this stipulation Southern Pacific Company agreed to work with the complainant, and with the Commission, and have the plans definitely agreed upon within this time.

The hearing was then adjourned to July 27, 1921, to give the parties an opportunity to get together, it being understood that the railroad would, before or at that time file its plans, specifications and estimates, subject to the approval of the Commission, and at that time such further proceedings would be had as might be deemed advisable and proper.

The hearing set for July 27th was reset to August 12, 1921, but by telegram dated August 1, 1921, the complainant approved of the plans submitted by the railroad. These plans were also approved by the Commission and the matter was temporarily removed from the calendar.

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The construction of the new facilities requiring considerable time, nothing further was done for about a year, when the Commission inquired of complainant if the complaint was satisfied. By letter dated August 17, 1922, complainant advised the Commission that the prayer of the complaint had been complied with and stated that its letter could be considered a request for dismissal of the proceedings.

The following form of order is recommended:

ORDER.

Atascadero Chamber of Commerce, a corporation, having filed a complaint asking that Southern Pacific Company be directed to install a new station building and facilities at an approved site at Atascadero, a public hearing having been held, and complainant having advised the Commission, in writing, that the complaint is satisfied, and having requested, therefore that the matter be dismissed;

It is hereby ordered, that the above entitled matter be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of August, 1922.

DECISION No. 10920.

IN THE MATTER OF THE APPLICATION OF GRANGE WAREHOUSE AND STORAGE COMPANY FOR PERMISSION TO ISSUE STOCK AND BORROW MONEY.

Application No. 7969.

Decided August 26, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Grange Warehouse and Storage Company has filed, in the above entitled matter, a supplemental petition wherein it asks permission to execute a deed of trust to secure the payment of $125,000 of first mortgage 7 per cent 15-year sinking fund gold bonds due August 1, 1937; issue and sell the bonds at 95 per cent of their face value and accrued interest and use the proceeds to pay indebtedness of The Grange Company.

The Railroad Commission by Decision No. 10633, dated June 28, 1922, authorized the Grange Warehouse and Storage Company to issue $240,000 of stock for the purpose of qualifying directors and acquiring the public utility properties of The Grange Company. The value of the properties was reported by applicant at $415,823.52. Applicant has

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acquired the properties and has issued in part payment therefor stock in the amount of $239,500. The Grange Company will hold this stock. It is of record that no change in the management of the warehouses will result from the transfer of the warehouse properties.

Prior to the transfer of the properties The Grange Company incurred indebtedness. To pay part of this debt, The Grange Company and the Grange Warehouse and Storage Company propose to issue $125,000 of bonds, for which they are jointly and severally liable. The payment of the bonds will be secured by deed of trust covering all the property now owned or hereafter acquired by the Grange Warehouse and Storage Company.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that Grange Warehouse and Storage Company be and it is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding and marked Exhibit "D," provided,

That the authority herein granted to execute such deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which such deed of trust may be subject.

It is hereby further ordered, that Grange Warehouse and Storage Company be and it is hereby authorized to issue and sell, on or before October 1, 1922, for cash, at not less than 95 per cent of their face value and accrued interest, $125,000 of first mortgage 7 per cent 15-year sinking fund gold bonds due August 1, 1937, and use the proceeds obtained from the sale of such bonds to pay indebtedness of The Grange Company reported in applicant's Exhibit "E," or for such other purposes as the Railroad Commission may authorize by a supplemental order or orders.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $125.

2. Within thirty days after its execution, applicant shall file with the Railroad Commission a certified copy of the deed of trust securing the payment of the bonds herein authorized to be issued.

3. Grange Warehouse and Storage Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth

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day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-sixth day of August, 1922.

DECISION No. 10926.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE FIVE PER CENT BONDS OF THE PAR VALUE OF ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS AND TEN-YEAR SIX PER CENT NOTES OF THE PAR VALUE OF EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS.

Application No. 7604.

Decided August 31, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Applicant on August 22d filed in the above entitled matter a supplemental petition wherein it asks permission to sell at not less than 86½ per cent of their face value and accrued interest $115,500 of first and refunding mortgage (now first mortgage) 5 per cent bonds due June 1, 1941, and use the proceeds to finance construction expenditures.

The Commission, by Decision No. 10162, dated March 7, 1922, authorized applicant to issue $195,000 of its first and refunding mortgage bonds subject, among others, to the condition that none of the bonds be sold or otherwise disposed of except as authorized by the Commission in a supplemental order or orders. On June 29, 1922, the Commission by Decision No. 10642 authorized applicant to sell $79,500 of the bonds at not less than 87½ per cent of their face value and accrued interest. Applicant now asks permission to sell the remaining $115,500 of bonds at not less than 86½ per cent of their face value and accrued interest. We believe that the minimum price suggested by applicant is too low and the order herein will fix the minimum price at 87½ and accrued interest.

Applicant in its Exhibit "C" reports its uncapitalized construction expenditures to July 31, 1922, at $99,313.23. Applicant asks permission to finance, through the sale of its bonds, these expenditures, together with other expenditures incurred during August.

The Commission has considered applicant's requests and believes that they should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 10162, dated March 7, 1922, as amended, be and it is hereby further modified so as to permit Western States Gas and Electric Company to sell $115,500 of

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the first and refunding mortgage (now first mortgage) 5 per cent bonds, the issue of which is authorized by said decision, at not less than 87½ per cent of their face value, plus accrued interest, for the purpose of financing such part of the construction expenditures, referred to in applicant's third supplemental petition filed in the above entitled matter, as are properly chargeable to capital account under the uniform system of accounts prescribed by the Railroad Commission for gas and electric companies.

It is hereby further ordered, that the order in Decision No. 10162, dated March 7, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this thirty-first day of August, 1922.

DECISION No. 10927.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided August 31, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 9989, dated January 12, 1922, authorized San Joaquin Light and Power Corporation to issue and sell $5,000,000 of its 7 per cent cumulative prior preferred stock, subject to the condition, among others, that proceeds from the sale of $3,060,898.82 of stock should be deposited with a bank or banks and expended only for such purposes as the Railroad Commission might subsequently authorize; and

Whereas, the Commission by supplemental orders in the above entitled matter, authorized the company to use the proceeds from the sale of $1,640,029.30 of such stock to finance in part, construction expenditures made prior to July 1, 1922, and to loan $750,000 of proceeds from the sale of said stock to Southern California Gas Company; and

Whereas, the company now reports that during the month of July, 1922, it expended on capital account, the sum of $399,423.49, as shown in detail in the statement of expenditures against estimates for the month of July, 1922, which was filed with the Commission on August 22, 1922; and

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Whereas, applicant asks permission to use the proceeds from the sale of $399,423.49 of the stock authorized by Decision No. 9989 to finance, in part, these reported expenditures;

And, the Commission being of the opinion that applicant's request should be granted, as herein provided;

It is hereby ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, be and it is hereby modified so as to permit San Joaquin Light and Power Corporation to use the proceeds from the sale of $399,423.49 of the stock authorized in said decision to reimburse its treasury on account of earnings used to pay the cost of the extensions, additions and betterments referred to in this order, or to pay indebtedness incurred for said purpose, provided that only such portion of the cost of said extensions, additions and betterments as is properly chargeable to capital account under the uniform classification of accounts prescribed or adopted by the Railroad Commission, be financed through the use of moneys realized from the sale of stock.

It is further ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

Dated at San Francisco, California, this thirty-first day of August, 1922.

DECISION No. 10929.

IN THE MATTER OF THE APPLICATION OF THE HOLLYWOOD CHAMBER OF COMMERCE FOR AN ORDER FOR CERTAIN CAR LINES OF THE LOS ANGELES RAILWAY CORPORATION TO BE EXTENDED NORTHERLY INTO HOLLYWOOD TERRITORY, FOR THE REMOVAL OF DISCRIMINATION IN FARES AND FOR UNIVERSAL TRANSFERS.

Case No. 1714.

Decided September 1, 1922.

EXTENSIONS—ELECTRIC RAILWAY—JURISDICTION.—Section 23, article XII of the constitution reserved to cities or cities and counties such powers of control over public utilities as was vested in cities previously to the adoption of the constitutional amendment until transferred to the Commission by a vote of the people. An examination of the Los Angeles charter discloses that the city had no power to require extensions and hence none was reserved to it by section 23, article XII.

EXTENSIONS, JURISDICTION—CHARTER AMENDMENT.—An amendment of the Los Angeles charter subsequently to the effective date of the Public Utilities Act giving the city authority to require extensions by public utilities, is declared to be void, as in conflict with section 36 of the Public Utilities Act conferring jurisdiction upon the Commission in regard to extensions.

EXTENSIONS—JURISDICTION, PUBLIC UTILITIES ACT—AMENDMENT OF 1914.—By the amendment of 1914 of section 23 of the constitution, cities retained only such powers of control over public utilities as related to the making and enforcement of police, sanitary and other regulation. This reservation, it is held, does not include power over extensions.

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EXTENSIONS—JURISDICTION—MUNICIPAL AFFAIR.—Under section 6, article XI of the constitution, cities are empowered to make and enforce laws respecting municipal affairs without restriction by any outside authority. The Commission expresses the opinion that when the city, by charter amendment in 1917, availed itself of section 6, article XI of the constitution as amended in 1914, the Railroad Commission was automatically divested of all powers which it may have possessed respecting municipal affairs in Los Angeles, with the specific exception of rate fixing.

EXTENSIONS, JURISDICTION—INTEREST OF PUBLIC—MUNICIPAL AFFAIR.—The conclusion is reached that the question of whether the extension here sought should be made involves the question of whether the rights and interests of the general public will be advanced and that this is not a municipal affair, but a question for the state to determine.

EXTENSIONS—JURISDICTION—POWER TO MAKE ORDER—ENFORCEMENT.—The Commission adopts the view that it has power to order a utility to take all steps necessary to procurement of rights of way and to proceed to construct extensions. If the company is unable to acquire the right of way because the city refuses to grant the franchise the order could not be enforced.

EXTENSIONS—NEW PUBLIC SERVICE—FRANCHISE RIGHTS—SCOPE OF UTILITY'S UNDERTAKING.—It is declared that franchise rights are not the correct measure of the scope of a utility's undertaking. If a street car company has entered and undertaken to serve a community, it must make all extensions necessary fully to perform that service. The conclusion is reached that the undertaking is not strictly limited by existing franchise rights, but that its full scope can not be determined without the taking of evidence.

Robert Young, for Hollywood Chamber of Commerce, Hollywood, California.
Edwin O. Edgerton and *S. M. Haskins*, for The Los Angeles Railway Company, Los Angeles, California.
Frank Karr, for The Pacific Electric Railway Company, Los Angeles, California.
J. E. Stephens, *Milton Bryan* and *H. Z. Osborne, Jr.*, for City of Los Angeles.
William Hazlett and *R. V. Orbison*, for City of South Pasadena, California.
T. C. Gould, for City of Alhambra, California.
Bert P. Woodard, for City of Glendale, California.
W. H. Engle, for Edendale, California.

BY THE COMMISSION.

OPINION.

On February 11, 1922, the Hollywood Chamber of Commerce filed a complaint in which it alleged that the street car service of the Pacific Electric to the Hollywood District of Los Angeles was inadequate. Three forms of relief were asked for, the extension of the lines of the Los Angeles Railway Company into Hollywood, removal of discriminatory fares and granting of universal transfer privileges in the event the extensions of the Los Angeles Railway lines are made.

Answers were filed by the Pacific Electric Railway Company and the Los Angeles Railway Company denying that the Commission had jurisdiction to order the Los Angeles Railway Company to extend its lines. The Pacific Electric Company also denied that its service was inadequate.

The Commission was in doubt as to the question of jurisdiction thus raised and a hearing was held for the purpose of receiving argument on that question. Subsequently briefs were filed and the matter is now ready for decision on the preliminary question of jurisdiction.

The extensions asked for are wholly within the corporate limits of the city of Los Angeles. This suggests the question as to whether the

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power to require such extensions is not one of the exclusive powers of control over public utilities reserved to cities by section 23, article XII of the constitution. If so, the Commission would not have jurisdiction to grant the relief asked for.

The constitutional amendments reorganizing the Railroad Commission and authorizing the legislature to confer broad and exclusive powers upon it were adopted in 1911. Section 23, article XII, provided that from and after the passage of laws conferring powers upon the Commission, all powers respecting public utilities vested in governing bodies of counties, cities and counties and cities, should cease in so far as they conflicted with the powers conferred upon the Commission. This section also contained the proviso that such powers of control over any public utility as were vested in cities or cities and counties, should be retained and should continue unimpaired until transferred to the Commission by a vote of the people of the city or city and county. The city of Los Angeles, therefore, retained all power over public utilities which it had in 1911 when this constitutional amendment went into effect.

An examination of the Los Angeles city charter, as it was in 1911, discloses no specific provisions empowering the city to order utilities to make extensions. There was, of course, subdivision 34, section 2 which authorized the city to make and enforce local, police and sanitary regulations. While all public utility regulation is in a broad sense referable to the police power, we think that these general powers did not authorize the city to order a street railway company to extend its lines. We are satisfied that when section 23 of the constitution went into effect in 1911, the city had no power to require extensions and hence none was reserved to it by the reserving clause of that section.

In 1913, subdivision 30 of section 2 of the charter was amended to authorize the city "to require the construction, operation and maintenance of extensions necessary for the accommodation of the public." It is doubtful if this amendment added anything to the cities' powers. The Public Utilities Act became effective in 1912. Section 36 authorized the Commission to require extensions. After that act became effective all powers vested in the city ceased. Since the city did not have the power to require extensions in 1912, it could not vest itself with that power by subsequent charter amendment in 1913, and that portion of the amendment which is in conflict with section 36 of the Public Utilities Act is void and of no effect.

Application of James A. Murry et al., 2 R. C. D. 464–502.

However, even if it be assumed that by the amendment to subdivision 30, section 2 of its charter, the city did obtain power to require extensions, we have still to consider the fact that section 23 of the constitution was again amended in 1914 and by that amendment the powers

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over public utilities formerly reserved to cities were materially abridged. By the change of 1914, all rate-fixing power, both within and without cities, was vested in the Commission. Also instead of retaining *all powers* of control over public utilities which were vested in them, cities retained only such powers of control over public utilities as *related to the making and enforcement of police, sanitary and other regulations.* Complainant argues that the power to order extensions of railway lines is not included within "police, sanitary or other regulations." In support of this argument, the similar language of section 11, article XI of the constitution is referred to and numerous cases, including *Pratt* vs. *Spring Valley Water Company*, 4 R. C. D 1077, are cited which hold that the term "police, sanitary and other regulations" does not include the power to regulate the relationship between a utility and its patrons. In view of the case referred to and the authorities cited therein, we are of the opinion that the reservation to cities of such power of control over utilities as relates to police, sanitary and other regulations, does not include the power here in question. It follows, therefore, that unless the city derives the power to require extensions from some other constitutional provision, that power has ceased so far as the city is concerned and is now vested in the Commission.

In 1914, section 6 of article XI relative to city charters was amended to authorize cities to amend their charters so as to become empowered to make and enforce laws respecting municipal affairs without restriction by any outside authority.

Assuming for the moment that the extension of street car lines wholly within a city is a municipal affair, we have this situation. Section 23, narrowing the scope of the reservation of power to cities, has deprived the city of any power over this municipal affair (if the city ever had such power) and vested it in the Railroad Commission. Section 6, on the other hand, has authorized the city to amend its charter so as to legislate on the same municipal affair and declared that when the city has done this, it shall be free from all other control. These two constitutional provisions became effective on the same day and are of equal force in point of time. According to established rules of construction, if one of two conflicting provisions of law deals specifically with a subject and the other relates only generally to that subject, the former will prevail. In dealing with these same two provisions of the constitution in the case of *Civic Center Assn.* vs. *Railroad Commission*, 175 Cal. 441–449, the Supreme Court said:

"The provisions of sections 6 and 8 of article XI related particularly to municipal corporations. The provisions of section 23 giving the legislature the right to confer additional powers upon the Railroad Commission are more general, and they only affect municipal affairs incidentally and where the operations of railroads take place within the limits of a municipal corporation. The express provision of section 23 that the power to fix rates in municipalities shall be vested in the Railroad Commission, if conferred upon it by the legislature, being a special provision

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on a specific subject, would, upon the rule of construction stated, be superior to the general provisions of sections 6 and 8 of article XI, exempting all municipal affairs from legislative control. But with respect to other municipal affairs, the provisions of sections 6 and 8 of article XI must prevail, and in all cities which have availed themselves of these provisions such municipal affairs will remain free from legislative interference, whether by means of an act giving power to the Railroad Commission or otherwise."

On January 16, 1917, the city of Los Angeles availed itself of the provisions of sections 6 and 8 of artcile XI by adding the following subdivision to section 2 of its charter:

"51. To make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this charter."

Discussing the effect of this section, the Supreme Court said, in the *Civic Center* case, (p. 448):

"By subdivision 51, as will be observed, the city has brought itself within the conditions of the amendments of 1914 to sections 6 and 8 of article XI of the constitution. Thereupon, according to the terms of those sections of the constitution, its powers over municipal affairs became all embracing, restricted and limited by the charter 'only' and free from any interference by the state through general laws, including laws giving the Railroad Commission powers over public utilities."

If the extension of street railway lines is a municipal affair, it would seem clear from this statemet that as to such matters the city is "free from any interference" by the Railroad Commission. And this is true whether there is any valid provision in the city charter relative to extensions of railway lines or not. In the *Civic Center* case, the court, in discussing a municipal affair, said:

"The laying out, opening and improving of streets and the ordinary uses thereof are municipal affairs, and therefore the provisions of the Los Angeles charter relating thereto are superior to those of the Public Utilities Act, as far as the two are inconsistent. Indeed, as the constitution now reads, it is clear that even if the charter were silent, the legislature, after the amendment of 1917 to that charter, could not confer power upon the Railroad Commission to interfere with any municipal affairs of that city, other than rate-fixing, and that any powers heretofore given to the Railroad Commission by the legislature respecting such municipal affairs must yield to the charter, regardless of the effect prior to such charter amendment."

In view of these statements of the Supreme Court, we are of the opinion that when the city, by charter amendment in 1917, availed itself of the provisions of section 6, article XI of the constitution as amended in 1914, the Railroad Commission was automatically divested of all powers which it may have possessed respecting municipal affairs in the city of Los Angeles, with the specific exception of rate fixing. And this is true, even as to municipal affairs other than those reserved to the city by section 23 relating to local, sanitary and police regulations.

Complainant, in its opening brief, seems to recognize the force of the above quotations and urges that they are merely dicta and not rendered in deciding any point in the case. It is pointed out that certain dictum in the same case has been subsequently modified by the Supreme Court. We do not believe, however, that this fact would justify the Commission in disregarding other statements of the Supreme Court in which issues

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identical with those before us were being considered, and which are squarely decisive of those issues. Furthermore, there is a clear distinction between the statement from the *Civic Center* case which the court itself modified and those which we have quoted. The statement which was modified was as follows:

> "The result is that the city has become independent of general laws upon municipal affairs. Upon such affairs a general law is of no force with respect to Los Angeles. If its charter gives it powers concerning them, it has those powers; if its charter is silent as to any such power, no general law can confer it."

In the cases of *Cole* vs. *City of Los Angeles,* 180 Cal. 617; *Morgan* vs. *City of Los Angeles,* 182 Cal. 301, and *Hayes* vs. *Handley,* 182 Cal. 273, it was held that the city itself has power to adopt and make use of any state law applicable to a municipal affair as to which its own charter makes no provision. But this does not mean that some outside authority, such as the Railroad Commission, may step in and make laws or regulations as to municipal affairs within the city of Los Angeles. We think the statement of the *Civic Center* case that the city is "free from any interference by the state through general laws, including laws giving the Railroad Commission powers over public utilities" is in no way modified by the above decisions. In the present case, the legislative body of the city of Los Angeles has taken no action looking to the adoption of the state law relative to extensions of street railways. Any attempt on the part of an outside tribunal to make the general law relative to such a municipal affair applicable within the city would, in our opinion, be ineffective. This position is strengthened by the case of *ex parte Nowak,* 184 Cal. 701. In the *Nowak* case, the court held that the present status of the law relative to the Los Angeles charter is that, as to municipal affairs, it is a limitation and not a grant of powers and hence the city may exercise all power in municipal affairs subject only to the restrictions of the charter itself. We think this means that the city has power to order extensions (if that be a municipal affair) whether the charter authorizes it or not, providing the charter does not forbid it. While this ruling is not inconsistent with the proposition that the city may avail itself of any general law, it seems to us to exclude the idea that some outside authority can exercise concurrent control within the city respecting such affairs.

We have been assuming that the extensions sought by complainant come within the definition of municipal affairs. Of course, if they do not, a different conclusion would result for the sole basis of the city's authority rests on this assumption. We think, therefore, that the question should be carefully examined.

The only argument advanced by complainant on this question is that it is no concern to the city of Los Angeles as a whole whether the lines

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of the railway company are extended into Hollywood or not, but it concerns only the Hollywood community, hence it is not a municipal affair. With this contention, we can not agree. Very few so-called municipal affairs affect an entire municipality. In the case of *Cole* vs. *City of Los Angeles*, 180 Cal. 617, it was held that the creation of an improvement district within the city of Los Angeles and the issuance of improvement bonds within such district was a municipal affair. The matter involved there did not concern the interests of the people of the entire city as a whole. It concerned only those owning property within the district but it was nevertheless a municipal affair.

There are other considerations, however, which have an important bearing on the question. The Los Angeles Railway has lines extending outside the city limits of Los Angeles. At least four other municipalities are served by these lines: Vernon, Inglewood, Huntington Park and Eagle Rock. The system is more than local in its extent. The extensions here sought would furnish access into Hollywood by a single line for the people of all these towns. Likewise the people of Hollywood would obtain access by means of such extensions into all these cities without departing from the lines of the Los Angeles Railway. Municipal affairs refer to the internal business affairs of *a* municipality. Where several municipalities are affected as here, we think it is doubtful if the matter under consideration is a municipal affair even though the things to be done are wholly within one city.

But even if we disregard the interests of these other communities and treat the Los Angeles Railway as wholly within the city of Los Angeles, we think there is still a serious question as to whether these extensions concern solely "the internal business affairs of a municipality." They affect the use of the public highways of the city as a means of travel and communication. This is more than a local concern. "The streets of a city belong to the people of the state and every citizen of the state has a right to the use thereof, subject to legislative control." (*Ex parte Daniels*, 183 Cal. 639.) In the *Daniels* case it was held that the regulation of traffic upon the streets of a city was not a municipal affair and hence was subject to general law if there was a conflict between state law and city ordinance.

In the case of *Murphy* vs. *Missouri Pacific Railway Co.* (Mo. Public Service Commission) P. U. R. 1915 F. 149–167, Commissioner Eugene McQuillan, a recognized authority on the subject, discussed exhaustively the question as to whether the control of the streets in cities is a municipal or state affair. After a review of the authorities both of the common law and of this country he concluded that the control of highways, including streets and public ways in urban centers, is strictly a state function and state control is paramount. It is pointed out in this case that the granting of franchises to public service corporations to use the

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streets for railroad tracks and the running of cars thereon, for electric wires, cables, conduits, etc., and certain police powers relating to the regulation of streets and avenues are confided to the municipal corporation; but the municipal corporation acts as merely the agent of the state in the exercise of these powers and the state may resume its powers of control, "at any time after such control has been granted to incorporated cities and towns, whether operating under legislative charter, general or special, or a constitutional charter, as in Kansas City."

We think the reasoning of this and of the *Daniels* case is applicable to the use of streets by street railways and to the extensions of street railway lines. The street railway is a common carrier of passengers. It carries all persons who desire to ride. Though it obtains its franchises from the city, it can not exercise those franchises without the consent of the state expressed through the Railroad Commission. Section 50 (*b*) of the Public Utilities Act provides that,

"No public utility of the class specified in subsection (*a*) hereof (this includes street railways) shall henceforth exercise any right or privilege under any franchise or permit hereafter granted * * * without having obtained from the Commission a certificate that public convenience and necessity require the exercise of such right or privilege."

Under this section the Los Angeles Railway could not extend its lines if it desired to do so and had obtained the necessary franchises without first obtaining the consent of the Railroad Commission. The city could grant the franchises but the railway company could not use them unless the Commission found that public convenience and necessity required the extensions. The city's power has to do with the use and occupation of the street, the Commission's power deals with the necessity for the extension itself. If the company must apply to the Commission for consent to make the extension we think the reverse of this is true and the Commission has power to order the company to make the extension.

The distinction between the local police power of the city relative to the streets and the power of the Commission to regulate the business of the utility is pointed out in the case of *Oro Electric Company* vs. *Railroad Commission,* 169 Cal. 466. In that case the Commission refused to grant the Oro Electric Company permission to extend its lines into the city of Stockton.

The Court said, (p. 475–476):

"The granting or withholding of the certificate is an exercise of the power of the state to determine whether the rights and interests of the general public will be advanced by the prosecution of the enterprise which it is proposed to carry on for the service of the public. (See *People* vs. *Wilcox*, 207 N. Y. 86, (45 L. R. A. N. S.) 639, 100 N. E. 705.) This is an entirely different question from that of the local control of the streets, and power over the two subjects may well be vested at the same time in different governmental bodies, without the one in any way clashing with or interfering with the other. The Railroad Commission might grant a certificate

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authorizing a public utility to engage in its business in a given city, but the certificate would not authorize the use of the streets, unless the right to so use them had been given by the authority vested with the power to grant such right. This is recognized by subdivision (*c*) of section 50 itself, where we find an express provision that the applicant shall furnish to the Commission evidence that the required local consent, franchise or permit has been obtained. On the other hand, the fact that a city may, in the exercise of its control over its own streets, give or withhold the right to use its streets, has no direct bearing upon the power to decide whether or not a given business, in the conduct of which the use of the streets may be convenient or necessary, shall be carried on. Where there is this limited control, its exercise is not impaired by legislation under which the state reserves to itself the determination of how far, if at all, the given business may be conducted. The city's powers are fully preserved if its streets are not occupied, except by its consent, given as may be provided by law."

We think from the above quotation it is clear that the question of whether the extensions here sought should be made, involves the question of whether the rights and interests of the general public will be advanced by the prosecution of such an enterprise and that this is not a municipal affair but a question for the state to determine.

Our conclusion is that the powers of the Commission under Section 36 of the Public Utilities Act have not been impaired by the Los Angeles charter or by section 6 of article XI of the constitution.

Certain other objections made by the Los Angeles Railway Company and by the Pacific Electric Railway Company must now be considered.

It is claimed that the Commission is not empowered to make orders which might be rendered futile by reason of the action or nonaction of other bodies beyond the Commission's control. To comply with an order requiring extensions of lines, the company would have to obtain franchises from the city of Los Angeles. It might be unable to do this, hence, it is claimed, the order here sought would be void. In support of this contention the cases of *State* vs. *Public Service Commission,* 192 S. W. 958; *Allied Associations* vs. *Public Service Commission,* 70 Penn. Superior Ct. Reports 13, and *In re Union Railway Company of New York,* P. U. R. 1916 F, 773, are cited. These cases seem to hold that an order which can not be enforced is not a valid order. For instance, it is said in *State* vs. *Public Service Commission,*

"A permissive order, such as here seeks judicial sanction, is a contradiction in terms and is unknown to the law. A mandatory order is burdened with no modifications, and emanates from a source having power to enforce it. Lacking these essentials, it is a mere nullity."

However, we do not think that these authorities are conclusive of the question. There are points in all these pages that distinguish them from the case at bar. It is not necessary to discuss these distinctions at length for the reasons that there is sufficient authority to the contrary to satisfy us that these cases are not controlling.

An order which is incapable of enforcement without the precedent procurement of consent from some other body is certainly not unknown to the law. The most common instance of such an order is one which

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requires the utility to exercise the power of eminent domain. Commissions frequently make orders which can not be enforced until the utility brings suit in a court and obtains a judgment of condemnation. Such orders have been sustained by the United States Supreme Court and by other courts in the following cases:

Wisconsin M. & P. R. Co. vs. *Jacobson,* 179 U. S. 287; 45 L. Ed. 194–201,

quoted with approval in

Pac. T. & T. Co. vs. *Eshleman,* 166 Cal. 672;
Muhlke vs. *N. Y. & Harlem R. Co.,* 197 U. S. 544; 49 L. Ed. 872;
Atlantic Coast Line R. Co. vs. *North Carolina Corp. Comm.,* 206 U. S. 1; 51 L. ed. 933, 945;
Mobile, etc., Ry. Co. vs. *Mississippi,* 210 U. S. 187; 52 L. Ed. 1016–1024;
Grand Trunk R. Co. vs. *Michigan R. R. Comm.,* 231 U. S. 470; 58 L. Ed. 318;
Ala. Great So. Ry. vs. *R. R. Commission of Ala.,* 64 So. 13, 185 Ala. 354.

With regard to an order awarding reparation the Supreme Court of South Dakota said in *Turner Creamery Co.* vs. *Chicago, Milwaukee and St. Paul Ry.,* 154 N. W. 819, P. U. R. 1916 A, 1083,

"The mere fact that the board has no power to enforce its orders can not be successfully urged as a denial of the power to make the order when the statute expressly gives it that power."

In the *Oro Electric* case (*supra*), at p. 476, the court said:

"The Railroad Commission might grant a certificate authorizing a public utility to engage in its business in a given city, but the certificate would not authorize the use of the streets, unless the right to so use them had been given by the authority vested with the power to grant such right."

We think this last statement applies with equal force to an order of the Commission. The Commission might order the extension but this would not authorize the use of the streets. Just as the Commission has *power to grant the certificate* so it has *power to make the order,* although in neither case will the action of the Commission avail anything unless subsequent consent is obtained from the city. But in both instances the statute authorizes the Commission to take the action and hence it is valid when taken.

In the case of *City of San Jose* vs. *Railroad Commission,* 175 Cal. 291, the court was reviewing an order of the Commission authorizing the Southern Pacific Company to cross certain streets in San Jose. The court said (p. 291):

"Petitioner's remaining point is that the Commission acted in excess of its jurisdiction in failing, as a prerequisite to the grant of any authority to the Southern Pacific Company to cross certain specified streets in the city of San Jose, to require

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the said company to obtain a franchise from the municipality for such crossing. There is no merit in this point. The order of the Commission did not assume to enumerate all of the conditions with which the public service corporation must comply before being permitted to cross the streets in question."

In addition to these cases there are a number of Commission cases from other states in which orders have been made directing a utility to apply for a franchise. In *Hannibal* vs. *Hannibal R. & E. Co.*, P. U. R. 1916 A, 1013–1028, the Missouri Commission said:

"It is needless to say that this Commission has no power to grant the necessary franchise or compel the municipal authorities of Hannibal to do so. If we should order the extension (assuming the conditions justify such action, which question is considered later herein) and the city should object, we could not enforce the order, since our authority in this respect is over the defendant only, not the city. *Auburn* vs. *Street R. Co.*, 2 P. S. C. (2d Dist. N. Y.) l. c. 356. However, this Commission may direct defendant in a proper case to apply to the appropriate municipal authorities and take the necessary legal steps to secure the required franchise and rights of way. *West End Business Men Assoc.* vs. *United R. Co.*, 2 Mo. P. S. C. 357, 375; *Murphy* vs. *Missouri P. R. Co.*, 2 Mo. P. S. C. 471. See *Merrill* vs. *Merrill R. and L. Co.*, 5 Wis. R. C. R., 418."

From all the above authorities we are satisfied that the Commission has power to order the company to take all steps necessary to the procurement of the rights of way for, and to proceed to construct, such extensions as the public need may be found to require. If the company is unable to acquire the right of way because the city refuses to grant the franchises the order could not, of course, be enforced. But this fact does not prevent the Commission from making the order in the first instance or excuse the company from making every reasonable attempt to comply with it. The situation would be the same as if the Commission had made an order which required the company to exercise the power of eminent domain and the company, for some good reason, was unable to obtain a judgment of condemnation. This does suggest, however, the need for cooperation between the city authorities and the Commission in carrying out any extension or improvement where action of both bodies is required.

It is urged by the Los Angeles Railway Company that under the city charter the terms of any franchise which the city could grant are onerous and even confiscatory and that the company could not be compelled to accept such a burdensome franchise even though the city is willing to grant it. We do not think it is necessary to pass upon the validity of the franchise provisions of the city charter. We may assume that these provisions are valid and the company may be required to operate under them. It may be added, however, that the company can not be required to operate at a loss; but would be entitled to collect a rate which will produce a fair return on all new capital which might be required to carry out the extensions, should they be ordered.

A more serious objection is that to order these extensions would be to require the company to perform a new public service which it has

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never undertaken to render. This raises the question of whether the proposed service comes within the scope of the undertaking which the railroad company has assumed. There is no doubt as to the legal principle that a public utility can not be required to dedicate its property to a new and additional enterprise not theretofore undertaken by it.

Atchison, Topeka and Santa Fe Ry. vs. *Railroad Commission,* 173 Cal. 577.

It is argued that when a company is required to have separate franchises for each street upon which a car line is operated, the undertaking to serve is defined and limited by these franchises. In other words, that the obligation to serve can not be extended beyond the rights which have been granted. No authority is cited which would justify such a narrow construction of the law as this. The *Santa Fe* and *Del Mar* cases hold that a utility can not be required to engage in an entirely new undertaking but they do not hold that the present undertaking is limited by, and coincident with, the exact franchise rights held by the utility. We do not think that franchise rights are the correct measure of the scope of a utility's undertaking. When a street railway has entered a given territory, it may, by declarations made to the city council or by other acts or statements, have signified its intention to serve all of that territory. The fact that it does not have franchises to serve all such territory would not relieve it of its obligation. If it has entered and undertaken to serve a community it must make all extensions necessary to fully perform that service.

A different situation arises when a territory has never been entered at all and the utility has never signified its intention of serving it or has always signified its intention of not serving it. In that event there can be no doubt that an order requiring extensions into such territory would be invalid. It is claimed by the railroad companies that this is the situation here.

Complainant, on the other hand, alleges in its amended complaint that the Los Angeles Railway was organized for the specific purpose of serving the city of Los Angeles of which the Hollywood community is a part and that said company has already entered the Hollywood region by extending two of its lines into it. Complainant contends that for the purposes of this decision those allegations should be deemed to be true. The question of the scope of a utility's undertaking is, we think, a question of mixed law and fact. The mere allegation that the company was organized for the specific purpose of serving the city of Los Angeles, if taken as true, would not, standing alone, necessarily establish that service to the Hollywood community was within the scope of the company's undertaking. While this is a jurisdictional question, it is

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one which can not be conclusively established without the taking of evidence. Our conclusion is that the undertaking is not strictly limited by existing franchise rights but that its full scope can not be determined without the taking of evidence.

We have now discussed all the jurisdictional questions involved in the proceeding and while we have expressed definite opinions on all of them, we recognize that none of these questions is entirely free from doubt. They are all novel in their present application and will not be definitely settled until our Supreme Court passes on them and construes them in the light of our peculiar constitutional and statutory provisions.

The complaint before us asks for very important and expensive changes and extensions in the Los Angeles street car system. The company has already signified its unwillingness to make them. The jurisdictional questions we have discussed will undoubtedly be carried to the Supreme Court by one party or the other after the hearing. A complete hearing on the merits of the complaint would involve an extensive and costly investigation and a long delay, and when the hearing was completed and the Commission had made its order the doubtful jurisdictional questions would still be unsettled.

In view of the importance of this case and the fact that by it a precedent will be established as to the matter of extensions in chartered cities throughout the state, we think it would be to the advantage of all parties and of the public generally if these questions were determined by the Supreme Court prior to any exhaustive hearing on the merits. This can be brought about by a dismissal of the present complaint and by application on the part of complainant, or other interested parties, to the Supreme Court for a writ of mandate to compel the Commission to proceed.

There is a precedent for such a course of action in the case of *Civic Center Assn.* vs. *Railroad Commission*, where the Commission, though, as here, believing it had jurisdiction, dismissed the complaint in order to bring about a speedy and authoritative determination of important jurisdictional questions before proceeding with a long and expensive investigation and hearing.

The transportation problem in the Hollywood district is an important one and merits the earnest consideration and cooperation of the city, the Commission and the street railway companies. We take this occasion to suggest and recommend that a conference be held between representatives of the city, the Commission, the street railway companies and complainant with the view to working out this problem; and that as the first step of such a program, action be brought at once along the lines indicated to test the jurisdictional questions which we have just discussed.

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We recognize that the last question discussed, *i. e.*, the scope of the railway company's undertaking, perhaps can not be determined on the present record. Evidence may have to be taken. But in view of the provisions of section 1090 of the Code of Civil Procedure, relative to determination of questions of fact in mandamus proceedings, we do not believe a further delay, for the purpose of taking evidence on this question alone, would be justified. If, upon mandamus proceedings being instituted, the Supreme Court determines that there is a question as to a matter of fact essential to the determination of the question, it may direct that the question be tried as provided in section 1090.

In addition to said extensions, complainant asks for removal of discriminatory fares and for universal transfers.

The question of fares is now being considered in another proceeding to which this complainant is a party. As complainant has been fully heard on the question of fares in that case, we think further hearing is unnecessary.

The matter of universal transfers in Los Angeles has also been under consideration in another pending proceeding. But as complainant was not a party to that case, the order herein will be made without prejudice to the right of complainant to file further complaint regarding universal transfers.

ORDER.

For the reasons above stated;

It is hereby ordered, that the complaint of the Hollywood Chamber of Commerce herein be and the same is hereby dismissed.

Provided this dismissal is without prejudice to the right of complainant to file a further complaint in the matter of universal transfers in the city of Los Angeles.

Dated at San Francisco, California, this first day of September, 1922.

DECISION No. 10930.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY IN THE STATE OF CALIFORNIA.

Application No. 3791.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS USING LOCAL SERVICE BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF LOS ANGELES, CALIFORNIA.

Application No. 4403.

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IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE FOLLOWING CITIES, COMMUNITIES AND TERRITORIES IN THE COUNTIES OF LOS ANGELES, ORANGE, RIVERSIDE AND SAN BERNARDINO, CALIFORNIA, TO WIT: CLAREMONT, COLTON, GLENDALE, HUNTINGTON BEACH, LONG BEACH, NEWPORT BEACH, PASADENA, POMONA, REDLANDS, REDONDO BEACH, RIVERSIDE, SAN BERNARDINO, SAN GABRIEL, SAN PEDRO-WILMINGTON, SANTA ANA, SANTA MONICA, SAWTELLE-SOLDIERS HOME, SOUTH PASADENA, UPLAND, VAN NUYS, VENICE, SANTA MONICA-OCEAN PARK-VENICE-PLAYA DEL REY, LANKERSHIM, SAN FERNANDO, SHERMAN, CULVER CITY, HERMOSA BEACH, MANHATTAN BEACH, EL SEGUNDO, GARDENA, TORRANCE, COMPTON, WATTS, SEAL BEACH, FULLERTON, WHITTIER, BREA, EL MONTE, SAN DIMAS, COVINA, LA VERNE, ONTARIO, RIALTO, ARCADIA, MONROVIA, GLENDORA, SIERRA MADRE, SAN MARINO, ALHAMBRA AND BURBANK.

Application No. 4407.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS, CARLOADS, CLASSIFIED FIFTH CLASS IN CURRENT WESTERN CLASSIFICATION, AS CONTAINED IN PACIFIC ELECTRIC RAILWAY COMPANY'S LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF C. R. C. NO. 235, APPLYING BETWEEN POINTS ON LINES OF PACIFIC ELECTRIC RAILWAY COMPANY IN CALIFORNIA TO THE BASIS OF FOUR AND ONE-HALF CENTS PER HUNDRED POUNDS HIGHER THAN RATES IN EFFECT ON MAY 25, 1918, BUT NOT TO EXCEED FIFTH CLASS RATES AS INCREASED EFFECTIVE JUNE 25, 1918.

Application No. 4733.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES AND TO ESTABLISH JUST AND REASONABLE RATES FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN POINTS IN THE STATE OF CALIFORNIA.

Application No. 5806.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE ELECTRIC STREET RAILWAY SERVICE OF THE PACIFIC ELECTRIC RAILWAY COMPANY AND LOS ANGELES RAILWAY CORPORATION IN THE HOLLYWOOD DISTRICT OF THE CITY OF LOS ANGELES.

Case No. 1602.

THE CHAMBER OF COMMERCE OF SAN PEDRO

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1607.

Decided September 2, 1922.

RATES—ELECTRIC RAILWAY UTILITY—SEGREGATION OF SYSTEM—DISCRIMINATION.—The Commission expressed the view that the segregation of a particular line for the purpose of rate regulation should be made only where it clearly appears

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that such line constitutes a distinct unit. Where it clearly appears that the local service to the various districts within a city is a unified system, rates should be established for the local system as a whole. To do otherwise, it is held would be discrimination.

RATES—INTERZONE FARES—COMMUTATION TICKET.—After a five months' test of Los Angeles local service, the Commission concluded that a modification of the interzone rate was justified and that the benefit of a lower rate should be given to the regular rider, analogous to commutation fares in the interurban service.

UNIFICATION OF SYSTEMS—CONFERENCE PROPOSED.—The Commission expresses the belief that satisfactory local street car transportation can not be brought about in Los Angeles and that the needs of the growing city can not be met until there is a unification of the two local systems into one single system under one ownership and one operating management. A conference to this end is proposed.

INTERURBAN SERVICE—RATES—DENSITY OF TRAFFIC.—It is held that the only fair and nondiscriminatory rate-making system for interurban service is a mileage basis. Density of traffic can not be a controlling factor in fixing the mileage rate.

LAND, VALUATION OF—UNEARNED INCREMENT—EXCESS COST OF ACQUISITION—MULTIPLE THEORY.—In regard to the contention that the unearned increment in land value should be treated as revenue instead of capital, the Commission points out that in much of its purchased land the company paid in excess of the then or present market value, and this excess cost of acquisition is said to be the backbone of the multiple theory. This theory the Commission has rejected in all public utility rate cases. The adoption of this theory, it is declared, would be a distinct disservice to the utility ratepayers of this state.

FAIR RETURN—RATE FACTORS—RATE OF RETURN.—In determining a fair return in the instant case the Commission states that it took into consideration all of the controlling elements of the situation, including the relation of the Pacific Electric to the Southern Pacific Company, the expected increase in traffic, operating expenses, allowance for depreciation, division between operative and nonoperative property, treatment of past and current losses. Taking into consideration expenditure for deferred maintenance required by the order, the fair return to the company is between 5 and 5½ per cent.

Frank Karr and *R. C. Gortner*, for Pacific Electric Railway Company.
Edwin O. Edgerton and *S. M. Haskins*, for the Los Angeles Railway Corporation.
Jess E. Stephens, *W. P. Mealey*, *Milton Bryan*, *H. Z. Osborne, Jr.*, and *F. A. Lorentz*, for the City of Los Angeles.
J. H. Howard, for City of Pasadena.
William Hazlett and *R. V. Orbison*, City Manager, for City of South Pasadena.
Arthur A. Weber, for City of Santa Monica.
Arthur A. Weber and *Charles W. Lyon*, for Santa Monica Bay Realty Board, Venice Chamber of Commerce, Santa Monica-Ocean Park Chamber of Commerce, Santa Monica City Club, West Los Angeles Improvement Association and Venice Merchants Association.
T. C. Gould and *Grant N. Lorraine*, City Manager, for City of Alhambra.
Thomas B. Reed, for City of Covina.
Frederick Baker, for City of Azusa.
H. B. Lynch, *Bert B. Woodard* and *Wm. H. Reeve*, City Manager, for City of Glendale.
Clyde Woodworth, for City of El Segundo, City of Inglewood and City of Beverly Hills.
Geo. L. Hoodenpyl, *Bruce Mason* and *P. E. Hewes*, City Manager, for the City of Long Beach.
Geo. H. Scott, for City of Santa Ana.
Charles W. Lyon, for City of Venice.
E. O. Winburn, for City of Watts.
William Guthrie, for City of San Bernardino.
Walter F. Dunn, for City of El Monte and City of Arcadia.
Miguel Estudillo, for City of Riverside.

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John P. Dunn and *A. Black*, for City of Monrovia.
Frank L. Perry, for Cities of Manhattan Beach, Hermosa Beach and Redondo Beach.
Thomas A. Berkebile, for City of Monterey Park.
C. L. Welch, for Hollywood and Santa Monica Boulevard Improvement Association.
Earl Crandall and *G. E. Delevan, Jr.*, for City of Manhattan.
George R. Wickham, for City of Hermosa Beach.
W. E. Guerin, for City of Pomona.
P. A. Stanton and *J. P. Transue*, for City of Seal Beach.
F. P. Gregson, for Associated Jobbers of Los Angeles.
J. S. Horn, for Los Angeles Central Labor Council.
W. H. Engle, for People of Edendale and Northwest Welfare Association.
Harold Janss and *F. A. Cattern*, for Northeast Los Angeles Improvement Association.
Shannon Crandall, for Los Angeles Chamber of Commerce and Torrance Chamber of Commerce.
Perry G. Briney, for Llewellyn Iron Works and the Union Tool Company of Torrance.
Henry E. Carter, for Wilmington Chamber of Commerce.
Rollin L. McNitt, for Eagle Rock Chamber of Commerce.
I. G. Lewis and *Milton Bryan*, for San Pedro Chamber of Commerce.
W. E. Mellinger, for Hermosa Beach Chamber of Commerce.
Harlan G. Palmer and *E. M. Tilden*, for Hollywood Board of Trade.
Robert Young, for Hollywood Chamber of Commerce.
Howard F. Shepherd and *C. L. Welch*, for Santa Monica Boulevard Improvement Association.
O. G. Ball and *A. L. Colby*, for Dayton Improvement Association.
M. L. Garrigus, for certain citizens of Central-South Hollywood.
Seward Cole and *Edwin O. Palmer*, for Santa Monica and Vine Boulevard Business Men's Club.
R. J. Harwood, for Hollywood Vermont Association.
Anthony Pratt, for Municipal League.
E. C. Moore, for Vermont Avenue and Griffith Park Improvement Association.
W. H. Cline and *Van M. Griffith*, for Los Angeles Park Commission.
W. E. Sibertson, for West Hollywood Association.
A. A. Pratt, for himself as patron of Pacific Electric and driver of automobile.
H. W. Kidd and *F. D. Howell*, for Motor Transit Company.
Rollin L. McNitt, for Pasadena-Pomona Stage Line, Pasadena-Ocean Park Stage Line, Mount Wilson Stage Line, Arrowhead Springs Company.
S. W. Thompson, for United Stages, Inc.
F. Landier, for Auto Bus Operators in San Pedro.
A. W. Burt, for Protestants, residents of San Antonio Heights.
C. F. Sawyer, for himself as a resident of Hollywood.
A. F. Hall, of Long Beach, *in propria persona*.
G. O. Clark, for West Ivanhoe Improvement Association.
E. L. Duffy, for Maywood Commercial Improvement Association.
C. D. Swanner, for Seal Beach.
E. L. Brady, and *Walter L. McIntyre*, for Rose Hill Improvement Association.
Mrs. Emma C. Newton, for residents of Avila.
L. V. Shepherd, for Highland Park Chamber of Commerce.
H. H. Wilson and *Phil B. Hart*, for Florence Improvement Association.
George H. King, for Chamber of Commerce of Glendale; also *James W. Rhodes*, Secretary.
J. P. Transue, for Seal Beach Chamber of Commerce.
William Hazlett, also representing citizens of Richardson and Atwater stations on the Glendale line; also *Dickinson* and *Gillespie*, property owners, Richardson Station.
W. P. Wolff, for residents of Hauser Station.
John E. Carson, for Chamber of Commerce of Glendora.
H. D. Anderson, for Chamber of Commerce of Watts.
J. M. Page, Secretary, Chamber of Commerce of Pomona.
Frank Walton, for Springdale, Willowbrook and Compton.
John T. Ackley, for Monterey Park Chamber of Commerce.
W. T. Sterling, for High School Teachers' Association.

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Walter Gould Lincoln, for Baldwin Park Chamber of Commerce.
Mr. Poor, for Clean Government League.
Benjamin W. Shipmen, for Wilmar Chamber of Commerce.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

Decision No. 9928 in this proceeding was rendered by the Commission on December 24, 1921. On December 31, 1921, application for rehearing was filed by the Hollywood Chamber of Commerce, asking, among other things, that the effective date of Decision No. 9928 be suspended until after a further hearing and that adequate time be given to petitioner to prepare an amended petition in greater detail. On the same day the Commission made its order granting the petition for rehearing, but leaving Decision No. 9928 in full force and effect pending a decision on rehearing. The Hollywood application was subsequently amended several times, as will later be discussed in this opinion.

Applications for rehearing were also filed by the city of Alhambra (on January 5, 1922), by the city of Glendale (on the same date), by the city of South Pasadena (on January 9, 1922), by the city of Pasadena (on January 21, 1922), and, on the same date, by the city of Manhattan Beach.

An amendment to its application was filed by the company on January 24, 1922.

Hearings on these petitions were held in Los Angeles on January 24, 25 and 26, 1922. On January 28, 1922, after partial rehearing, the Commission made its first supplemental opinion and order (Decision No. 10017) and ordered certain changes in the forms and in the price of commutation tickets. In all other respects the original order remained in effect.

Further hearings on the applications for rehearing were held in Los Angeles on March 20, 21, 22 and 23, 1922. Additional testimony and exhibits have been introduced, briefs have been filed, and the matter is now ready for decision.

1. Contentions of applicants for rehearing.

(a) Hollywood Chamber of Commerce.

The Hollywood Chamber of Commerce (hereinafter referred to as Hollywood), in the original and amended petitions for rehearing, attacks our decision in this proceeding on a number of items. Relief is asked on fourteen (14) different points. A number of these have already been disposed of and some others have reference to Case No. 1714, in which Decision No. 10929 was rendered on September 2, 1922. The points remaining for decision are:

1. That the rates for street car service within the city of Los Angeles be restored to the rates existing prior to Decision No. 9928;
2. That an experimental rate structure be put into effect, begin-

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ning with a 4-cent fare within each zone, and a 7-cent fare for cross-zone travel, with the financial result of such fares kept under advisement by the Commission, and that if such fares should be found inadequate to pay operating costs and a fair return, that gradual increase be made, and the experiment continued until the correct fare is arrived at by actual experiment;

3. That adequate credit be given the street car lines of Los Angeles for freight and interurban service for "the costly rights of way out of the city of Los Angeles" and that there be charged against the freight traffic "a just proportion of the expense caused by the dilapidated and antiquated and out-of-date and motley equipment";

4. That from the valuation and operative real estate all rights of way, except an adequate width for the purpose of operating the lines, and all excessive land, be eliminated;

5. That the value of the land which has been created by lapse of time and development of communities be treated as revenue and not as capital demanding a return;

6. That due allowance be made for the savings in operating expenses that will be caused by the investment of the new capital in new improvements on the Hollywood lines;

7. That the number of free riders "other than its officers and members of the State Railroad Commission and its agents and employees" be charged directly against the company and not charged against the car riders.

In an amendment to the Hollywood petition of March 16, 1922, it is further alleged that the rates fixed by the Commission in Decision No. 9928 are excessive in so far as Hollywood is concerned and "will produce more than enough to pay operating expenses and other legitimate expenses and a fair return on the capital invested," and that, if any increase in rates is necessary over the old rates, "only a small increase" is necessary.

In support of these points Hollywood contends that the valuation of the property of the company, as made by the Commission's engineering department, and the rate base adopted by us are excessive. It is urged that this case is not a proper one for the exercise of the authority conferred upon the Commission by section 21, article XII of the constitution and section 24 (*a*) of the Public Utilities Act to relieve carriers in special cases from the inhibition of the so-called long and short haul clause; that such authority should only be used in "special cases" and that the present instance is not a special case. The relation of the Pacific Electric to the Southern Pacific is dwelt upon and it is urged that the operation and management of the Pacific Electric is for the purpose of advancing the interests of the Southern Pacific rather than for the benefit of the community through which the Pacific Electric operates. The elimination from the valuation and the rate base of large holdings of real estate and rights of way is urged. It is said that many of the

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lands are held by the company ostensibly as carriers of passengers, but they are "actually, and almost wholly, used as carriers of freight." The relation of the freight to the passenger service is discussed in the petition and it is alleged that passenger service and passenger equipment are neglected in favor of freight service and equipment and that, as a result, the passengers are required to bear the burden of the freight service. The methods used by the Commission's engineers in the valuation of lands is protested as erroneous and it is urged that the original cost, less depreciation, rather than the present value of lands should be made the basis of the valuation. The inclusion in the rate base of the present value of donated lands is declared to be unfair to the public and places an undue burden on the ratepayer. In the fixing of the rate base it is alleged that insufficient allowance has been made for the saving to the company from the construction of the proposed tunnel and the acquisition of the proposed new cars for the Hollywood service. It is alleged that, by reason of the complicated character of the company's service and the combination of interurban street railway and freight operation, "it is not within the bounds of reason or possibility to form any theory upon which a just passenger fare can be based, except by experiment and experience as applied to the operation of this special company." The institution of a system of universal transfers good on both the lines of the Pacific Electric and the Los Angeles Railways is urged.

There was in the original petition for rehearing a protest against the zone arrangement and the zone boundaries as fixed by the Commission, but this protest was withdrawn during the course of the hearing and this petitioner is now satisfied to have the zone boundaries remain as they are at present.

We shall deal with the contentions of this petitioner in such detail as may be possible in this opinion.

(b) Alhambra, Glendale, South Pasadena, Pasadena, Manhattan Beach, and other communities.

The petitions of these cities are generally of the same character. Objection is made to the rates as being too high and as giving the company a greater revenue and a greater return than is justified. It is urged that a particular service to a particular community should be considered on its own merits and not in relation to other services. The interurban service is thought by petitioners to carry an undue burden of the cost of the system operations and rate discrimination is charged in favor of the Los Angeles local service. It is also claimed that the present rates in providing a separate rate structure for local and interurban transportation violated that part of section 21, article XII of the

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constitution which prohibits the charging of a greater compensation as a through rate than the aggregates of intermediate rates.

The objection made to the form of commutation tickets has been remedied, as far as possible, in Decision No. 10017.

Glendale complains also about inadequate depot facilities and inadequate equipment in the Glendale service and protests against the condition of the grades and the railway crossings in the streets of the city of Glendale. These matters, it has been arranged, will be taken up directly between the city of Glendale and the company and they will not need to be further considered in this proceeding at this time.

During the course of the hearing, communities and individuals other than those having filed formal application for rehearing desired to enter their protest and it was stipulated that all parties wishing to join in the petition for rehearing shall have exactly the same standing as parties having filed applications for rehearing. The company stipulated that it would not hereafter interpose any jurisdictional objection to such applications on the ground that they were not filed with the Commission in time.

(c) Company's amendment to its application.

On January 24, 1922, the company asked leave to file an amendment to its original application. This amendment sets forth the two types of passenger transportation service rendered namely: interurban passenger service and street car service; it enumerates the distinguishing characteristics of each service, gives a list, with terminals, of such tracks over which joint operation is carried on and alleges:

"* * * that in order to separate the local passenger service from the interurban passenger service, it is necessary and to the public interest that a higher rate of fare be established on the interurban passenger cars within the zone points in and adjacent to the city of Los Angeles than that established on the local street cars for street car service, in order that the interurban service be not unduly burdened and expense of operation unduly increased by local passengers occupying the car space intended for interurban or zone car haul passengers, and to more adequately pay a reasonable rate for the higher class of service rendered; and also that the passenger fares to and from the large number of interurban and suburban points served by interurban passenger car service may be put upon a just and reasonable and nondiscriminatory mileage basis."

The company asks, in order that no doubt may exist as to its right to charge a mileage scale of rates and a minimum interurban passenger car fare in the territories where a local street car service is given, that an investigation be made into such special cases and for authorization after investigation to establish such scale of rates as shall be found just and reasonable for such different classes of service, even if the interurban passenger fare should be greater than the local street car fare over the routes and between the points set forth and notwithstanding the provisions of section 21 of article XII of the constitution of the State of California and of section 24 (*a*) of the Public Utilities Act.

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Formal objection was made by counsel for several communities to the filing of this amendment on the ground that the time for amendment of the application had expired. In overruling this objection and permitting the amendment, the Commission has acted in accordance with its established procedure. In proceedings of this nature, the Commission attempts, in so far as is possible, to avoid technicalities. Under the provisions of the Public Utilities Act, the Commission can and does permit amendments to the pleadings even at the time of hearing, providing that the interests of other parties are not prejudicially affected.

In this proceeding great latitude was allowed the cities and other complainants in the matter of filing and amending their petitions and introducing testimony. The same latitude, we think, should be allowed the company. Every available means was employed to facilitate the bringing forth of all relevant facts and information in these cases and nothing has appéared which would indicate that any of the parties were placed at a disadvantage by permitting the amendment at the time it was offered, or that their interests were prejudicially affected thereby.

2. Los Angeles local service.

The claim of Hollywood for a reduction in the local fares and all other claims of this applicant rest upon the proposition that the Hollywood service is separate and distinct from all other services rendered by the company. It is claimed that such service is separate not only from all freight service, from all interurban service and from all local service outside the city of Los Angeles but, further, that it should not be considered as a part of the Pacific Electric local service in the city of Los Angeles but should be separated as a distinct operation performed with a separate and distinct property and facilities. On this basis the principal witness for Hollywood, Mr. Ost, has proceeded to analyze the exhibits heretofore introduced in these cases and particularly Commission's Exhibit No. 1 and Commission's Exhibit "A," Case No. 1602, and the Board of Public Utilities' Exhibit "A," Case No. 1602. He has attempted, on the basis of these exhibits, to allocate to the Hollywood service all the property required for such service and to apportion to it proper operating expenses and proper operating revenues. The result of his set-up is an estimate of gross income from the Hollywood service which will not meet the total cost of service (including operating expenses, 6 per cent interest on a valuation of $3,672,811 and an amount for depreciation of $100,000) by the sum of $46,512. Counsel for Hollywood concludes from these figures that the Hollywood rates should be reduced, that the charge for crossing from one zone into another should not exceed 1 cent in addition to the zone fare, and that the entire Hollywood cross-zone fare should not exceed 7 cents.

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It is quite clear from all of the evidence that the correctness of these estimated results in Exhibit No. 1 of the Hollywood Chamber of Commerce can not be taken for granted. Even if we were to accept the basis for the Hollywood set-up, we would not be satisfied that the gross income estimate of $273,857, under the rates in effect prior to January 1, 1922, could be realized. Not only do we disagree with the results of Exhibit No. 1, but we are compelled to reject the basis for the entire estimate.

We are convinced, after a careful review of the evidence, that the facts do not justify the conclusion that the Hollywood service should be singled out and segregated from the other local services on other Pacific Electric lines in the city of Los Angeles, for the purpose of establishing rates for that line, irrespective of all other parts of the local system. According to our view, the segregation of a particular line for the purpose of rate regulation should only be made where it clearly appears that such line constitutes a distinct unit. Where, as in this case, it clearly appears that the local service to the various districts within the city is a unified system of transportation, rates should be established for the local system as a whole, rather than for particular lines. To do otherwise, under the circumstances, would suggest discrimination in favor of a particuler section of the city to the detriment of other sections.

We are convinced that the only natural and justified segregation of the services rendered by this company falls into three different and distinct classes: The freight service, the interurban, and the local or street car service. Each of these services, we believe, should be self-sustaining. Just and reasonable rates should be fixed for each and no one should be forced to carry the burdens of another. We further conclude that as to local or street car service, not only the city of Los Angeles, but each and every other city or community having a local street car service, should be treated as a unit and that the possible losses in one community should not be charged against another community or against another class of service.

To this extent we have considered segregation and differentiation justified. The freight service, the interurban service, and the local service of each city are, in fact, distinct units of the Pacific Electric system. To go further and distinguish between individual freight lines and attempt to fix different freight rates according to the density of traffic and physical characteristics, or to segregate individual interurban lines with different mileage and commutation rates for each line according to varying traffic characteristics, or to similarly pick out an individual line of the local service in any city, for the establishment of particular rates on such line, would not only greatly complicate the entire problem of fixing a reasonable rate, but would almost inevitably

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result in such inequalities, both as to rates and service between different communities, as would practically amount to unjust discrimination. Not only have we considered any such method of rate making impossible of practical application, but we also believe it is apparent that traffic characteristics on each line and on each service are continuously changing and that a rate structure based on such a theory would be utterly lacking in stability. The resultant effect of such unnatural dismemberment of the system for rate-making purposes would, in our opinion, be highly prejudicial to the welfare of the communities served by it. We have, therefore, adhered to a scheme and plan of rate making practiced throughout the United States and fully sanctioned by law, which will minimize undue preferences and discrimination between communities and to the greatest possible extent foster the development of an adequate and unified system of transportation. Acting on such conclusions, we have treated the Pacific Electric local service in Los Angeles as one unit.

It is true that in Case No. 1602, which before consolidation into this proceeding dealt with the Hollywood service exclusively, we attempted to estimate the cost of operation and revenue on the Hollywood lines, but this was in a service case and not a rate case and it was done not with any thought of establishing a separate rate of fare but in order to determine to what extent the traffic on the Hollywood lines required and justified the installation of additional equipment and additional facilities. The very fact that Case No. 1602 was consolidated with the present proceeding, as soon as the rates became an issue, would show that the Commission considered rate fixing by individual lines or groups of lines impracticable.

Nothing developed at the rehearing has changed our conclusions. Neither has the city of Los Angeles, of which Hollywood is a part, asked for a different rate for different portions of the city.

We have, however, given careful thought to such adjustment of zone points as seems desirable to be made in view of the testimony introduced on rehearing and also to the possibility of making an adjustment of inter-zone fares applicable to the entire Los Angeles local service. Local service is now given on the so-called Watts-South Pasadena line from Watts at the southern terminus to Mission road and Fair Oaks avenue, the northern terminus. South Pasadena objects to the present limit of the second zone on the local Los Angeles service at Thorne street and points out that the local service continues beyond Thorne street to Mission and Fair Oaks, a distance of 1.77 miles. Under the present rate structure the single one-way fare on the local line for this distance is 14 cents. It has been suggested that a third zone might be created for South Pasadena to embrace the local service between Thorne street and Mission and Fair Oaks. We are not persuaded that an additional

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zone for so short a distance is justified and have come to the conclusion that this territory should be included in the second zone. With this inclusion the total length of this local line will be 9.32 miles. We believe this extension of the second zone is justified, since there now exists, and has existed for a long time, a local street car service to the proposed limit of the second zone in South Pasadena. The company attempted to show a distinction between the South Pasadena local service and local service elsewhere and to maintain that the South Pasadena service beyond Thorne street should be put into the interurban class. We have concluded that the service north of Thorne street is local in its character, the same as south of Thorne street.

In Alhambra and Glendale, where it is also contended that local service rates should apply, the situation is different. Local service has not in the past existed and is not now in operation to these points. We are not prepared at this time to order the inauguration of local service in addition to the existing interurban service and, until local service is in fact established, we see no justification for establishing local rates.

A change also appears to be justified in the first zone limit on the Sierra Vista line. The first zone boundary on that line is now at Indian Village, a distance of 4.47 miles. We believe the limit of the inner zone should be placed at Rose Hill Park, a distance of 5.57 miles.

It is likely that in the future additional local service will have to be established by the company within a second zone limit on lines where no local service exists at present. The need for such local service will become most urgent, probably, in the territory that may be served by an extension of the Edendale line between the present terminus of that line and the Southern Pacific crossing at Tropico. This neighborhood is building up rapidly with a character of development that appears to be particularly dependent upon local street car service.

With the results of operations on the Los Angeles local service before us for the first five months of 1922, we conclude that a modification of the inter-zone rate is justified and that the benefit of a lower fare may be given to the regular rider analogous to the reduced commutation fares in the interurban service. We believe it is practicable and desirable to establish a form of monthly commutation 60-ride coupon ticket without limitation as to use, good for 40 days from date of sale and good for a ride through two zones and with transfer privilege, the same as 10-cent cash fare, and that this form of ticket can be sold by the company for $4.80, a reduction of $1.20 below the same number of single cash fares and the equivalent of 8 cents for a ride through two zones. We believe that such a ticket will not only prove a great convenience and benefit to the regular car rider in the outlying districts, but that the loss in revenue to the company will be offset, partially at least, by an increase in traffic.

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In Decision No. 9928, *supra,* the order contained a provision requiring the company to file a stipulation to institute a universal transfer arrangement in the city of Los Angeles between the company's local lines and the lines of the Los Angeles Railway on such terms as may appear just and reasonable. Such a stipulation has been filed. It is our intention to institute a proceeding toward the consummation of such a universal transfer arrangement.

In the same decision we directed the company to acquire new equipment for the Hollywood service, to rearrange the Hill street terminal and construct a tunnel westerly from that terminal to First street and Lake Shore avenue and to inaugurate certain motor-bus feeder lines in Hollywood territory. We required these improvements and capital expenditures (at a cost of $3,000,000) because it was absolutely necessary, in our opinion, to have the present urgent transportation needs of this section of the city taken care of, notwithstanding the uncertainty and the conflicting views as to the ultimate development of local transportation in Hollywood.

The company has agreed to meet these requirements. Fifty (50) new cars of an improved type have been ordered for the Hollywood service and first deliveries have been made. Right of way and land for the tunnel has been bought, plans have been prepared and application has been made to the Los Angeles City Council for the necessary tunnel and line franchise. The company has further agreed to institute certain bus feeder lines and franchise applications are pending before the city council. The city has indicated its willingness to act on these franchise applications as soon as decisions are made by this Commission in the present proceeding and in Case No. 1714. In the latter case the Hollywood chamber of commerce has asked the Commission to make an order for the extension of certain car lines of the Los Angeles Railway Corporation northerly into Hollywood territory, for the removal of discrimination in fares, and for universal transfers. The complaint in the matter of extensions was dismissed by us in Decision No. 10929 on grounds set forth in the decision.

There appears to be no reason now, as soon as the necessary city franchises are granted, for any further delay in the consummation of the requirements referred to and we expect the company to use all possible diligence in completing the Hollywood construction and service program in the matter of the tunnel and equipment, as well as in the matter of motor-bus feeder lines.

The point urgently reiterated by Hollywood that there now exists unjustifiable discrimination by reason of different service and different rates on the two street railway systems serving the city, the Pacific Electric and the Los Angeles Railway, and that such discrimination

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should be removed by order of this Commission, is a most important one and, in Decision No. 10929, *supra,* we have called attention to the jurisdictional difficulties involved. We may, with propriety, here state our belief that satisfactory local street car transportation can not be brought about in Los Angeles and that the needs of the growing city can not be met until there is a unification of the two local systems into one single system under one ownership and one operating management. Obviously, this can be accomplished in one of three ways: the Pacific Electric to take over the Los Angeles Railway lines, the Los Angeles Railway to take over the local lines of the Pacific Electric, or the city to take them both. Short of such unification it will be very difficult, if not impossible, to advance the local transportation development parallel to the development and the needs of the city. The powers of the city or of this Commission to order extensions (and the railroads deny that there is such power in either jurisdiction) are circumscribed by law and rates and service must, under the law, be governed by the peculiar circumstances pertaining to each separate property. It is clearly in its best interests that the city should fully realize these conditions and the limitations of the present scheme of street railway transportation. These fundamental questions should have consideration in the conference we have suggested in Decision No. 10929, *supra.*

3. Interurban rates.

We see no justification for making any changes in the interurban rates fixed in Decision No. 9928. The contention made by the petitioners for rehearing that some of the interurban rates are excessive and produce a greater net revenue than the company is entitled to is not based on fact. The comparison frequently made by applicants of interurban rates with local rates is misleading. That there is a real distinction between interurban service and local service can not be doubted and the only fair and non-discriminatory rate-making system for interurban service, in our opinion, is on the mileage basis. In strictly local street car service a rate structure based on mileage, of course, can not apply.

Density of traffic in interurban service can not be a controlling factor in fixing the mileage rate. On a system like the Pacific Electric, which radiates in all directions from the center of the city of Los Angeles, uniform mileage rates must apply. The lines with a greater density of traffic automatically render their patrons a superior service because such service is more frequent and in other ways often more desirable.

The distinction which has been pointed out between the interurban service and the local service disposes of the contention urged on behalf

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of some of the cities that the allowance of a through rate on certain interurban lines which was higher than the aggregate of the intermediate rates on the local lines, was in violation of section 21 of article XII of the constitution. As we have indicated, the rates for interurban service are established on a mileage basis, which would be wholly inapplicable to the local service.

The complaint of the city of Seal Beach appears to require attention. In Decision No. 9928 the Commission ordered the discontinuation of the so-called beach blanket rates with the exception that the company was required to maintain, on Saturdays, Sundays and holidays, a round-trip excursion rate of 70 cents applying between Los Angeles and all beach resorts from Port Los Angeles on the north to Anaheim Landing on the south. In computing mileage, the company has applied a uniform rate to communities such as Long Beach and San Pedro by figuring the distance to a point as central as possible for each community. An exception appears to have been made in the cases of Seal Beach, where different fares are in effect, depending upon the absolute mileage to each stop. We believe that this situation should be remedied in this and all similar cases and a single central mileage computed to Seal Beach and to other communities. The city of Seal Beach contends, further, that the same mileage should apply as applies to Long Beach and San Pedro, regardless of the actual mileage. This contention is made because this condition existed in the past, prior to the effective date of Decision No. 9928, and, further, because certain contributions were made in the form of right of way and possibly other forms when the line was built into Seal Beach.

Such considerations can not be of controlling influence with the Commission and it is clear that discrimination against other communities would be the result if a different method of mileage computation were permitted for Seal Beach (which is a separate and distinct community approximately two miles distant from the city of Long Beach) than is in effect for other communities.

4. Valuation rate-base, revenues and expenses.

Applicants for rehearing, Hollywood in particular, protest that the valuation of the company's property, used and useful in the service to the public, and the rate base are excessive and that, in consequence, a rate of return higher than need be is allowed the company. The method of land valuation is especially criticised. It will be well, therefore, to again deal briefly with the matters of valuation and rate base, although the method of computation is shown in Decision No. 9928, *supra*.

The Commission's engineering department made a detailed and painstaking valuation (Commission's Exhibit No. 1), estimating the historical reproduction cost undepreciated and the historical reproduction

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cost less depreciation of both the operative property and the nonoperative property. In addition, reproduction cost new estimates were made on the basis of a five-year construction period ending December 31, 1920, with estimates for operative and nonoperative property before considering depreciation and after considering depreciation. These valuations were made in the same manner and under the methods uniformly applied in the valuation of all public utilities by this Commission. The rights of way and lands of the company were valued on the basis of the market value, without the allowance of any so-called multiples, of adjoining and similar lands and there were included all lands owned by the company regardless of how ownership was acquired. A careful division was made between lands necessary and used and useful in the operation of this railroad (these were classed as "operative lands") and lands not necessary and not used for such purpose (these were classed as "nonoperative lands").

It is suggested that the inclusion in operative property of a continuous right of way of 75 or 100 feet in width is excessive and that there should be included only a strip of sufficient width to accommodate the tracks and other existing facilities. Such a view, we think, is untenable. A reasonable width for right of way is a necessary requirement for efficient railway service and whether such a width should be 75 or 100 feet for single-track lines, with a greater width for double-track or four-track lines must depend upon circumstances. No hard and fast rules can be laid down. There is included in the Commission's valuation and rate base only such land and such right of way as, in our opinion, is actually necessary for operating purposes.

It is urged upon us by Hollywood that the value of the land, which has been created by lapse of time and development of communities, be treated as revenue and not as capital demanding a return. Aside from the question of constitutional law in this matter, it is in the record that the total actual original cost of all of the company's operative lands was impossible of ascertainment. The amount of money to be treated as income from unearned increment, under applicant's theory, would have to be an uncertain quantity, therefore, by a wide margin. It was possible, however, to find the actual cost of rights of way and lands acquired for the recently constructed lines and these figures are in the record. They show that on much of the purchased land the company paid in excess of the then or present market value and this "excess cost of acquisition" is the backbone of the multiple theory. We have rejected the multiple theory in all public utility rate cases. A change in this practice (which would be a consequence of the adoption of applicants' theory) would, in our opinion, be at variance with the established practice of the Commission and a distinct disservice to the utility ratepayers of California.

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We requested counsel of the several parties in this proceeding to advise the Commission, by brief or otherwise, as to the legal obligation of this Commission concerning the fundamental principles involved in the appraisal of the rights of way, donated lands and bonuses, and also concerning the justice or injustice of charging the same rate per mile to passengers patronizing the paying lines of the system as is charged to passengers traveling on lines that are barely paying operating expenses. Such briefs have been filed by some of the parties. We have given careful consideration to the opinions expressed and to the citations of the law. We are impressed that no other course can lawfully be followed by the Commission than the one taken in Decision No. 9928, *supra.*

It is misleading in considering the fairness and reasonableness of a rate to lay too much stress on one rate factor and too little on others. The valuation or the rate is only one item in a rate set-up. In this particular case it is by no means the most important one. A close scrutiny of the allowance for operating expenses, for instance, is of much greater importance. Other factors of primary importance are the percentage rate of return, the allowance for depreciation, the estimate of expected revenues, the division between operative and non-operative property, the treatment of past losses and of loss from current nonpaying operations. Only if the disposition of all of these rate factors is known and understood can a correct estimate of the reasonableness of the rate be reached. In this case we have allowed for normal and average operating expenses. Excess operating costs (such as deferred maintenance expenses) are not allowed in operating expenses, but have been treated as coming from fair return. Past losses have been given no consideration in the present rates. The depreciation allowance is admittedly not larger than absolutely necessary.

After a careful consideration of all the evidence of value submitted in this proceeding, it is our conclusion that the figures submitted showing the historical reproduction cost undepreciated, plus the amount of new capital to be expended for the Hollywood service, most nearly approximates the fair value of the property of the carrier for rate-making purposes. The inclusion in the rate base of the capital to be expended for Hollywood service improvements is proper, for the reason that in the estimates of revenues and expenses, the expected revenues, after such improvements of service have been made and the expected savings in operating expenses were also included.

The company objected to our engineering department's valuation estimates and made claims for increases aggregating at least $18,500,000.

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We made no decision on these disputed items but did not increase the rate base because of these claims.

In determining a fair return for this company and in estimating the total revenue required to produce the cost of service we had in mind what we believed to be all of the controlling elements of the situation, including the relation of this company to the Southern Pacific Company, the expected increase in traffic and the matters referred to above. Under the rates fixed in Decision No. 9928, *supra,* we estimated a net return, after operating expenses, depreciation and taxes, available for fixed charges of 6.3 per cent. But we also required the company to make good deferred maintenance of road and equipment to an approximate amount of $2,000,000 and suggested that this extraordinary expenditure be spread over a period of four years, increasing the operating expenses annually by about $500,000 for four years. The company has agreed to this suggestion and deferred maintenance expenditures are now being made at the rate indicated. This reduces the fair return to between 5 and 5½ per cent. In view of these facts, the claim of an excessive rate of return on an excessive rate base can not be sustained.

There are now available the operating results, under the rates fixed by the Commission in this proceeding, for the first five months from January to May, inclusive, of the present year. A comparison of these results with the corresponding months for the year 1921 (under the old rates) with the estimates made in Decision No. 9928, *supra,* is instructive. This comparison shows:

RESULTS OF OPERATIONS FOR 5 MONTHS ENDING MAY 31.

	1922	1921	1922 increase (—=decrease) 1921 (+=increase)
Railway operating revenue	$7,199,106.45	$6,959,491.43	+ 3.5%
Railway operating expense exclusive of depreciation	5,409,412.52	5,443,595.00	— .5%
Depreciation	115,883.03	114,383.72	+ 1.5%
Total operating expenses	5,525,295.55	5,557,978.81	— .5%
Net revenue from railway operation	1,673,810.90	1,401,512.62	+ 19.5%
Taxes	369,493.23	293,657.89	+ 26.0%
Railway operating income	1,304,317.67	1,107,854.73	+ 17.7%

REVENUE ANALYSIS.

	Passenger		Freight	
	1922	1921	1922	1921
January	$977,973.20	$1,013,192.43	$359,506.21	$369,461.67
February	927,272.36	947,479.31	300,631.66	271,366.43
March	1,025,660.08	1,023,281.98	381,061.15	364,731.07
April	1,033,274.08	978,226.57	340,013.61	333,979.19
May	1,096,380.42	983,937.90	359,944.65	321,965.85

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	Total operating.	
	1922	1921
January	$1,439,025.76	$1,451,146.95
February	1,315,763.31	1,283,200.97
March	1,495,509.78	1,457,011.80
April	1,451,792.88	1,376,199.44
May	1,504,208.36	1,389,380.57

OPERATING EXPENSES.

(*Excluding depreciation.*)

	1922	1921
January	$1,029,938.77	$1,047,433.90
February	960,725.81	977,240.73
March	1,079,013.46	1,051,281.62
April	1,030,683.35	1,098,150.20
May	1,062,440.55	1,063,071.71

Comparing the results shown in this table with the estimates in Decision No. 9928, *supra,* it is apparent that for the first six months of the present year the expected increase in gross and net revenue has not been fully realized. There are reasons for this condition beyond the influence of the rate structure (especially the unfavorable weather conditions during the early part of this year) and we are still of the opinion that the anticipated financial results may be expected to follow from the rates fixed in this proceeding and that these rates are just and reasonable, all things considered. We see no possibility, however, of the company being able to earn an excessive fair return. The adjustments required in this decision in local fares and in the zone arrangements will tend to reduce operating revenues and the recent reduction by the Interstate Commerce Commission of freight rates has already had, in a large amount, a similar effect.

We see no justification, therefore, for any change in the rate structure fixed in Decisions Nos. 9928 and 10017, *supra,* except to the extent that such changes are discussed in this opinion and it is our conclusion that in all other respects the two prior orders in this case should remain in full force and effect.

ORDER.

Applications for rehearing having been filed by the various parties to the above entitled proceeding, supplemental hearings having been held, and basing the order upon the preceding opinion and on the entire record, the Commission hereby modifies its orders as set forth in Decision No. 9928, dated December 24, 1921, and in Decision No. 10017, dated January 28, 1922, in the following particulars:

1. The Pacific Electric Railway Company is hereby ordered to publish and sell a 60-ride local street car coupon book, without limitation as to use and good within and between the inner and outer zones in the Los Angeles local service, as such zones have been heretofore defined and as modified in this decision, at the rate of $4.80 for each

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book, such ticket to be good at any time within forty (40) days from date of sale.

2. The zone limits for the Los Angeles local service heretofore fixed in Decision No. 9928, *supra,* are to be modified as follows:

(a) The second or outer zone limit on the northern terminus of the South Pasadena line shall be extended from the present terminus at Thorne street to Mission Road and Fair Oaks avenue in South Pasadena;

(b) The inner or first limit on the Sierra Vista line shall be extended from the present terminus at Indian Village to Rose Hill Park.

3. In computing rates and distances for the city of Seal Beach, the Pacific Electric Railway Company shall apply uniform rates to the community based on a representative central point.

In all other respects the orders heretofore issued by the Commission in this proceeding shall remain in full force and effect.

The Commission reserves the right to make such further orders in this proceeding relating to service and rates as may appear just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10932.

IN THE MATTER OF THE APPLICATION OF LA HABRA DOMESTIC WATER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE SECURITIES, TO WIT, CAPITAL STOCK.

Application No. 8161.

Decided September 2, 1922.

Marks and Launer, for Applicant.

BY THE COMMISSION.

OPINION.

La Habra Domestic Water Company asks permission to issue 340 shares ($17,000 par value) of its common capital stock for the purpose of reimbursing its treasury on account of earnings expended for plant extensions, additions and betterments, and for the purpose of securing funds to pay for plant extension, additions and betterments to be hereafter installed.

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A hearing was had on this application before Examiner Williams at Los Angeles on August 26, 1922.

Applicant was incorporated on or about April 19, 1913, with an authorized capital stock of $20,000 divided into 400 shares of the par value of $50 each. It reports $3,000 of stock outstanding. It has no bonded indebtedness, while its notes payable are reported as of June 30, 1922, at $8,900. As of the same date it reports an accumulated surplus of $13,988.25, all of which is invested in applicant's property and business.

Because of having invested its surplus earnings in its property and business, applicant asks permission to issue $12,000 par value of its common capital stock for the purpose of reimbursing its treasury and thereafter distribute such stock to its stockholders in the form of a stock dividend.

It is of record that applicant has actually earned at least $12,000 of its accumulated surplus and that it has expended such moneys for plant extensions, additions and betterments.

Applicant reports that the town of La Habra in which it is operating, is growing so rapidly as to necessitate the installation of many new services and extensive developments to increase its water supply. It asks permission to issue and sell at par $5,000 of its common capital stock for the purpose of paying for plant extensions, additions and betterments. An expenditure of $5,000 for additional plant facilities appears to be necessary. We believe, however, that the Commission should be furnished with more detailed information as to the specific purposes for which applicant intends to expend the $5,000.

The order herein will permit applicant at this time to issue and sell $5,000 of its common capital stock subject to the condition that the proceeds realized from such sale be deposited with a bank or banks and expended only for such purposes as the Commission may hereafter authorize in a supplemental order or orders.

The company should forthwith file with the Commission a statement showing in detail the purposes for which it intends to expend the $5,000.

ORDER.

La Habra Domestic Water Company, having applied to the Railroad Commission for permission to issue $17,000 par value of its common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be paid for by such issue is reasonably required by applicant and that this application should be granted, as herein provided;

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It is hereby ordered, that La Habra Domestic Water Company be and it is hereby authorized to issue $17,000 par value of its common capital stock, subject to the following conditions:

1. Stock in the amount of $12,000 may be issued by applicant for the purpose of reimbursing its treasury on account of $12,000 surplus earnings expended for plant extensions, additions and betterments, and after such reimbursement may be distributed by applicant according to law in the form of a stock dividend to its stockholders.

2. Stock in the amount of $5,000 shall be sold by applicant for cash at not less than par and the proceeds deposited with a bank or banks and expended only for such purposes as the Railroad Commission may hereafter authorize by supplemental order or orders.

3. La Habra Domestic Water Company shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before March 1, 1923.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10933.

IN THE MATTER OF THE APPLICATION OF D. B. MAURICE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE INBOUND STAGES FROM INGLEWOOD TO REDONDO, SERVICE VIA HERMOSA AVENUE FROM HERMOSA TO REDONDO.

Application No. 8076.

Decided September 2, 1922.

D. B. Maurice, Applicant, *in propria persona.*
R. E. Wedekind and *E. H. Sharpe,* for Pacific Electric Railway, Protestant.

BY THE COMMISSION.

OPINION.

D. B. Maurice, operating under the fictitious name of the West Coast Rapid Transit Company, has applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity to operate inbound stages from Inglewood to Redondo Beach by rerouting so that, between Hermosa Beach and Redondo, said stages traverse Hermosa avenue.

A public hearing was held by Examiner Williams at Los Angeles.

Applicant now operates into Hermosa Beach by a detour of half a mile from Camino Real over Pier avenue to Hermosa avenue, and

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returns by the same route to Camino Real and thence to Redondo. The trip over Pier avenue requires a climb of a steep hill on the return. To avoid this, applicant seeks to follow the beach, at level grade, over Hermosa avenue to his regular terminus in Redondo Beach.

This routing parallels the service of protestant, Pacific Electric, from Hermosa Beach to Redondo Beach, but as applicant stipulated to receive or discharge no passengers from Hermosa Beach to Redondo Beach, except incoming through passengers from beyond Hermosa Beach, protestant, Pacific Electric, withdrew its objections.

Applicant further stipulated that he would procure, and file as a part of this proceeding, official expressions by the chambers of commerce of Hermosa Beach and Redondo Beach. The former unqualifiedly expressed satisfaction with the new routing in a communication signed by J. H. Kibler, its president. Redondo Beach, however, in communication signed by H. R. Pomeroy, commercial secretary, expressed opposition, urging that Hermosa Beach passengers be transferred at Camino Real and Pier avenue to local stages of applicant. It is contended that either the detour to Hermosa Beach or the rerouting along Hermosa avenue will require five to ten minutes additional time in transporting Inglewood passengers to Redondo Beach. It is also stated by protestant that "according to figures filed by West Coast Rapid Transit Company, not over one per cent of the traffic from Inglewood is destined for Hermosa Beach." There is no testimony before the Commission as to what percentage is destined for Hermosa Beach.

It is our conclusion that transferring passengers for Hermosa Beach, at Camino Real, is not desirable either from the standpoint of efficient transportation or respect for a city of the class of Hermosa Beach; further, that the rerouting as proposed is an improvement over the present method of detouring and retracing, involves practically no loss of time and does furnish back country transportation directly to both Hermosa Beach and Redondo Beach. It is our further conclusion that the application should be granted.

ORDER.

D. B. Maurice, operating under the fictitious name of the West Coast Rapid Transit Company, having applied to the Railroad Commission for a certificate of public convenience and necessity to operate inbound stages of applicant's Inglewood line by way of Hermosa avenue, a public hearing having been held, the matter having been duly submitted and now is ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by

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applicant of his inbound (to Hermosa Beach) Inglewood lines over the following route:

From Pier avenue, Hermosa Beach, to Redondo Beach by way of Hermosa avenue.

And that a certificate of public convenience and necessity be and the same hereby is granted, on the condition that such operation is in lieu of return route from Pier avenue and Hermosa avenue to Camino Real, provided for by Decision No. 9343, and nothing else.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10934.

IN THE MATTER OF THE APPLICATION OF MERCANTILE TRUST COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ASSIGN AND TRANSFER CERTAIN PROPERTY; AND THE APPLICATION OF SAN CARLOS WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 8099.

Decided September 2, 1922.

Morrison, Dunne and Brobeck, by *Herman Phleger*, for Applicants.

BRUNDIGE, *Commissioner*.

OPINION.

In this application, the Railroad Commission is asked to make its order authorizing Mercantile Trust Company to assign and transfer to San Carlos Water Company the property and equipment employed in the distribution and sale of water in the town of San Carlos. The San Carlos Water Company joins in the application and asks permission to issue $22,500 of stock in payment for the properties and $300 to qualify directors.

It appears that a water plant and system was installed during 1910 by San Carlos Park Syndicate to assist in the sale of real estate. In November, 1915, the San Francisco Peninsula Company took over the properties subject to a deed of trust executed to Mercantile Trust Company. Thereafter, in May, 1917, the Trust Company acquired title to the unsold lots in the tract and to the water system through foreclosure proceedings.

It is of record that the system involved in this application originally consisted of a pumping plant and a 135,000 gallon concrete sump, together with certain distributing lines. At present the pumping plant is not being operated. Water is now being obtained from the Spring Valley Water Company. The distribution system now consists of about 11,330 feet of four-inch and 15,000 of two-inch, one and one-half inch,

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and one-inch mains, largely standard screw pipe. About 100 services have been installed. Testimony herein shows that all the properties, including those not now operated, are in good and serviceable condition.

In Decision No. 9803, dated November 23, 1921, reference is made to an appraisal made by the Commission's engineering department, hydraulic division, in which the original cost of the properties used and useful as of October 1, 1921, was estimated at $14,392. Since that date, it is reported that $3,781 has been expended for extensions, additions and betterments. In addition, Mercantile Trust Company proposes to transfer the pumping plant and sump which can be used for auxiliary purposes in the event that service from Spring Valley Water Company is interrupted. These properties, which were not included in the Commission's estimate of $14,392, are reported to have cost $5,585.

Mercantile Trust Company now proposes to sell the public utility properties. It caused San Carlos Water Company to be organized for the purpose of receiving and operating the water business and properties as a public utility. It is of record that no change in management or control will result from this proposed transfer.

The articles of incorporation of San Carlos Water Company show that it was organized on or about December 7, 1921, with an authorized capital stock of $50,000 divided into 500 shares of the par value of $100 each. The company proposes to deliver 225 shares of the total par value of $22,500 to Mercantile Trust Company in exchange for properties and to sell three shares of stock at par for cash for the purpose of qualifying directors.

I herewith submit the following form of order:

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purposes specified herein;

It is hereby ordered, that Mercantile Trust Company be and it is hereby authorized to assign and transfer the properties referred to in this application and in the foregoing opinion to San Carlos Water Company, and San Carlos Water Company be and it is hereby authorized to receive and acquire such properties.

It is hereby further ordered, that San Carlos Water Company be and it is hereby authorized to issue $22,800 (228 shares) of its capital stock.

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The authority herein granted is subject to the following conditions:

1. Three shares ($300) of the stock herein authorized may be sold by San Carlos Water Company at par for cash to its directors and the proceeds used for working capital.

2. The remainder of the stock herein authorized, $22,500, may be delivered by San Carlos Water Company to Mercantile Trust Company in payment for the properties it is herein authorized to acquire.

3. The consideration to be paid for the properties herein authorized to be transferred shall not hereafter be urged before this Commission as a measure of the value of the properties in fixing rates or for any purpose than the transfer herein authorized.

4. Within thirty days after the transfer of the properties herein authorized, San Carlos Water Company shall file with the Commission a certified copy of the deed by which it acquires title to such properties, and at the same time, shall file a statement indicating the exact date upon which it took possession of such properties.

5. San Carlos Water Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein granted will apply only to such properties as may be transferred, and to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10935.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AUTHORITY TO CONSTRUCT AND MAINTAIN A SIX ("6") LINE ON TENTH STREET, IN THE SANTA FE TRACT, RICHMOND, CALIFORNIA.

Application No. 8190.

Decided September 2, 1922.

Arthur J. Tashcira, for Applicant.
D. M. McEwen, for McEwen Brothers.
D. J. Hall, City Attorney, for Richmond.

BY THE COMMISSION.

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OPINION.

East Bay Water Company, a public utility water corporation operating in the so-called East Bay district of Alameda and Contra Costa counties, in the above entitled application asks for authority to extend its existing mains in Richmond, California, to supply the Nystrom School, a public school recently constructed in what is known as the Santa Fe tract.

It is stated in the application that East Bay Water Company has not heretofore supplied service in the said Santa Fe tract, such distribution being supplied by the McEwen Brothers system. It is further stated in the application that representations were made to the applicant by the city attorney of Richmond to the effect that the McEwen Brothers water system is unable to furnish an adequate supply of water for the school and for fire protection purposes, it being the desire of the city to have a hydrant installed at the end of the main opposite the school.

Public hearing was held in this matter before Examiner Satterwhite on August 30, 1922.

From the testimony of applicant, it appears that the proposed main is to extend along Tenth street, from applicant's 12-inch main at Ohio and Tenth streets to the school property at Tenth and Main streets, and that it is not its desire in making this extension to invade the territory now being served by the McEwen Brothers system, except that it desires to be given permission to serve such consumers on Tenth street, along the line of extension, as may make application for service.

McEwen Brothers offer no objection to the proposal of applicant, except that East Bay Water Company be restrained from furnishing water to corner lots of streets intersecting Tenth street, crossed by the proposed main. East Bay Water Company indicated that such arrangement was entirely satisfactory to it.

ORDER.

East Bay Water Company having made application as entitled above, a public hearing having been held and the matter having been submitted for decision;

It is hereby ordered, that East Bay Water Company be and the same is hereby authorized to install a water main in what is known as the Santa Fe tract, Richmond, California, from its existing main at Tenth and Ohio streets, in a southerly direction along Tenth street, a distance of approximately one thousand (1000) feet to supply water service to the Nystrom School, install such fire hydrants on said main as are ordered by the city of Richmond, and to supply such other applicants for service on Tenth street along the line of the proposed extension with the exception of corner lots at intersecting streets.

Dated at San Francisco, California, this second day of September, 1922.

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DECISION No. 10947.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL SECURITY.

Application No. 7275.

Decided September 2, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Ojai Power Company, in its third supplemental petition filed in the above entitled matter on August 24, 1922, reports that it proposes to expend $3,521.82 in the construction and acquisition of extensions, additions and betterments to its electric and water plants and systems. To finance the cost of these proposed expenditures, which are set forth in some detail in exhibits attached to the supplemental petition, applicant asks permission to use $3,521.82 of the proceeds obtained from the sale of the stock, the issue and sale of which the Commission authorized by Decision No. 9872, dated December 16, 1921.

The Commission has given consideration to applicant's request and believes that it should be granted, as herein provided; therefore,

It is hereby ordered, that Ojai Power Company be and it is hereby authorized to use $3,521.82 of the proceeds obtained from the sale of the stock authorized by Decision No. 9872, dated December 16, 1921, as amended, to finance the expenditures described in the third supplemental application filed in the above entitled matter.

It is hereby further ordered, that the order in Decision No. 9872, dated December 16, 1921, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10948.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING RATES TO BE CHARGED BY IT FOR GAS AND ELECTRICITY.

Application No. 6078.

Decided September 2, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, in Decision No. 9412 in the above entitled matter, this Commission provided with reference to the rates therein established

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that upon approval of the Railroad Commission, Schedule No. 1 would be subject to increase or decrease on the basis of 2.4 cents per 1000 cubic feet for each 10 cent increase or decrease respectively, in the price of oil above or below the price of $1.75 per barrel at San Diego; and that Schedule No. 3 would be subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10 cent decrease in the cost of oil below the price of $1.65 per barrel at San Diego; and

Whereas, San Diego Consolidated Gas and Electric Company having heretofore filed with this Commission an affidavit that the price paid for oil had been reduced by the total of 60 cents per barrel for Schedule No. 1, and 50 cents per barrel for Schedule No. 3, and the Commission having in consequence, in Decision No. 10856, ordered a reduction of 14 cents per 1000 cubic feet on Schedule No. 1 and 15 cents per 1000 cubic feet on Schedule No. 3; and

Whereas, San Diego Consolidated Gas and Electric Company now makes affidavit that on August 25, 1922, the price paid for oil at San Diego was reduced to $1.10 per barrel, this being a further reduction of 5 cents and a total reduction of 65 cents per barrel for Schedule No. 1 and a total reduction of 55 cents per barrel for Schedule No. 3 from the base prices on which rates were established in Decision No. 9412;

It is hereby ordered, that the rates set forth in Decision No. 9412, in Application No. 6078, designated as Schedules No. 1 and 3 be and they are hereby reduced by 16 cents per 1000 cubic feet, reductions on both schedules to be effective for all regular meter readings taken on and after September 25, 1922, this being a further reduction from rates now in effect of 2 cents per 1000 cubic feet for Schedule No. 1, and of 1 cent per 1000 cubic feet for Schedule No. 3.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company file with the Commission, on or before September 25, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10952.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8184.
Decided September 2, 1922.

Morrison, Dunne and Brobeck, by *Herman Phleger,* for Applicant.

BRUNDIGE, *Commissioner.*

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OPINION.

The California-Oregon Power Company asks permission to issue and sell at not less than $92 per share 5000 shares ($500,000 par value) of its 7 per cent preferred stock and use the proceeds to pay for additions and betterments and to reimburse its treasury for moneys expended from income for such additions and betterments.

Applicant has an authorized stock issue of $15,000,000 divided into $7,500,000 of common and $7,500,000 of preferred. As of August 1, it reports $6,669,500 of stock outstanding. The outstanding stock consists of $2,228,400 of preferred and $4,441,100 of common.

Applicant did not file a statement showing in detail its estimated construction expenditures. John D. McKee, applicant's president, however, outlined in general the construction work on which the company is now engaged and which it will undertake in the near future. In his opinion, it is necessary for the company to proceed with the sale of preferred stock for the purpose of paying in part the cost of extensions, additions and betterments.

Applicant asks permission to sell its stock for not less than $92 per share and expend of the proceeds an amount not exceeding $2 per share for the purpose of paying commissions and expenses incurred in connection with the sale of the stock. The remainder of the proceeds applicant agrees to impound and expend only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

I herewith submit the following form of order:

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue and sell $500,000 par value of its preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the sale of such stock is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that the California-Oregon Power Company be and it is hereby authorized to issue and sell, on or before June 30, 1923, for cash, at not less than $92 per share, 5000 shares ($500,000 par value) of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds realized from the sale of the stock herein authorized, an amount equivalent to not exceeding $2 per share may be expended for the purpose of paying commissions and expenses incident to the sale of the stock. The remainder of the proceeds realized from the sale of the stock shall be deposited with a bank or

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banks or with a trust company or companies and expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of September, 1922.

DECISION No. 10954.

IN THE MATTER OF THE APPLICATION OF AL G. WITT FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT SERVICE BETWEEN SAN FRANCISCO AND SAN JOSE.

Application No. 7940.
Decided September 7, 1922.

Chas. H. Haswell, by *J. J. McAtee*, for Applicant.
Spencer G. Prime, for San Francisco and San Jose Fruit and Produce Transportation Company, Protestant.
C. S. McLenegan, for C. B. McLenegan and Son and Pioneer-Gibson Express Company, Protestants.
C. H. Harper, for Highway Transport Company, Protestant.

MARTIN, *Commissioner*.

OPINION.

Al G. Witt has made application to the Railroad Commission in which he petitions for a certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of fruit and produce between San Jose and San Francisco and certain intermediate points.

A public hearing in the above entitled application was held on August 14, 1922, at San Francisco, at which time the matter was submitted and it is now ready for decision.

It appears from testimony of applicant and other witnesses called in his behalf that he has been operating service as herein proposed for a considerable period of time prior to May 10, 1917, and continuously since that date. This testimony is further supported by some five affidavits filed in connection with the present application.

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The protest of the Pioneer-Gibson Express and C. B. McLenegan and Son and Highway Transport was directed only to the objection which they maintained against the granting of a certificate which would permit applicant to haul general freight or merchandise other than fresh fruits, vegetables and produce of a similar nature destined from ranches and farms to commission houses in San Francisco.

The objection of the San Francisco and San Jose Fruit and Produce Transportation Company was not directed towards the application in so far as it sought to continue service in the transportation of fruit and produce to points which applicant heretofore has been continuously serving. They contended, however, that applicant proposes to render service to various communities which had not heretofore received such service. From a map attached to the application herein, it would appear that applicant intends to serve territory running from Mountain View to Alviso, Milpitas and San Jose to Santa Clara, Agnew, Sunnyvale to Mountain View, including all intermediate territory, together with the town of Saratoga. Fruit and vegetables are to be picked up in the territory hereinabove described and transported to commission houses at San Francisco.

Applicant testified that his transfer business was confined to the transportation of fruit and produce, but that he had on occasions transported on back haul oil at 25 cents per hundred pounds and ammonia tanks at $1.50 each. His exhibit, quoting rates, however, contains no provisions whatever for the transportation of any commodities other than fruit and vegetables. As no general showing was made justifying the issuance of a certificate authorizing the transportation of other than fruit and vegetables, the certificate must be so limited.

Applicant is unquestionably entitled to a certificate authorizing the continuance of operation as heretofore engaged in prior to the effective date of chapter 213, Statutes of 1917. Due to the very nature of the business in which he is engaged, that is, the season movement of different kinds of fruit and vegetables, there was considerable dispute as to whether or not he had been rendering service to certain of the communities included in the present application. The order herein, I believe, will confine the service to such points as the testimony shows have been continuously served by applicant.

I submit the following form of order:

ORDER.

A public hearing having been held upon the above entitled application, evidence submitted, and the Commission being fully advised, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation

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by Al G. Witt of an automobile truck line as a common carrier of fruits, vegetables and farm produce, only, from truck gardens, farms and ranches in the vicinity of Milpitas, Alviso, Agnew, San Jose, Saratoga, Cupertino, Mountain View, Los Altos, Mayfield, Palo Alto and Redwood City to San Francisco.

It will be distinctly understood that the certificate herein granted in no way authorizes the transportation of any commodity whatsoever from San Francisco, south, with the exception of returning empties.

It is hereby ordered, that applicant shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file within a period of not to exceed twenty (20) days from date hereof tariff of rates and time schedules, in duplicate, identical with those filed as Exhibits "A" and "B" attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned, unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

That no vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of September, 1922.

DECISION No. 10955.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY FOR LEAVE TO ISSUE TWO HUNDRED THOUSAND DOLLARS PAR VALUE OF BONDS.

Application No. 8086.

Decided September 7, 1922.

Jesse H. Steinhart, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended, San Francisco-Sacramento Railroad Company asks permission to issue and sell, at not less than 85 per cent of their face value, plus accrued interest, $200,000 of first mortgage 6 per cent bonds due January 1, 1940.

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A public hearing was held before Examiner Gordon in San Francisco on August 11, 1922. Since the hearing, additional information has been filed and the matter is now ready for decision.

The Railroad Commission by Decision No. 7026, dated January 12, 1920, as amended, authorized applicant to issue $6,550,000 of common stock and $1,330,000 of 7 per cent preferred stock for the purpose of acquiring the properties of Oakland, Antioch and Eastern Railway and affiliated companies. By the same decision the company was authorized to issue and sell, at not less than 90, and accrued interest, $900,000 of first mortgage 6 per cent bonds maturing serially in equal annual installments on the first day of January of each of the years 1921 to 1940, inclusive, and callable on any interest payment date at 102. It appears that $840,000 of these bonds were issued and that $565,472.79 of the proceeds were used to finance the cost of additions and betterments made since January 1, 1920. The remaining proceeds were used to pay outstanding indebtedness.

Applicant now reports that it will need $228,609 to pay for additions and betterments to its properties, consisting in general of sidings, stations, warehouses and concreting of its tunnel. Since the hearing, a statement has been filed setting forth these estimated expenditures in some detail. To finance these expenditures, in part, applicant asks permission to issue and sell $200,000 of first mortgage bonds. These bonds will be designated as the "Series of 1922"; will bear interest at 6 per cent per annum; will mature January 1, 1940, and will be callable upon any interest payment date at par, accrued interest and a premium of 2 per cent of the principal.

ORDER.

San Francisco-Sacramento Railroad Company, having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Francisco-Sacramento Railroad Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, at not less than 85 per cent of their face value and accrued interest, $200,000 of its first mortgage 6 per cent bonds, due January 1, 1940, and to use the proceeds for the purpose of financing, in part, its estimated capital expenditures referred to in the foregoing opinion and in a statement filed with this Commission on August 16, 1922.

The authority herein granted is subject to the following conditions:

1. San Francisco-Sacramento Railroad Company shall keep such record of the issue and sale of the bonds herein authorized and of the

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disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order..

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $200..

Dated at San Francisco, California, this seventh day of September, 1922.

DECISION No. 10956.

IN THE MATTER OF THE APPLICATION OF THE DEL NORTE PEOPLES TELEPHONE COMPANY, A CORPORATION, FOR CONSENT TO ISSUE A CERTAIN MORTGAGE AND NOTE.

Application No. 8198.

Decided September 7, 1922.

G. W. Manley, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

In this application, Del Norte Peoples Telephone Company asks permission to execute a mortgage and to issue a five year, 8 per cent note in the principal amount of $4,000 for the purpose of obtaining funds to refund outstanding indebtedness and to pay the cost of additions and improvements.

The record shows that applicant has outstanding notes aggregating $1,000 which are about to fall due. It appears that the indebtedness represented by these notes was incurred originally in 1916 in the purchase of the properties of Chetco Southern Telephone Company, as authorized by Decision No. 3247, dated April 10, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 696). It is now proposed to refund these notes.

In addition, the company reports that it will need $3,000 for improvements and betterments. Of this amount, $1,500 will be used for the extension and betterment of its Crescent City exchange outside plant, and $1,500 for rebuilding and improving 21 miles of its toll line from Crescent City to Trinidad.

G. W. Manley, applicant's secretary and general manager, testified that there is an increasing demand for additional services and facilities in Crescent City, which must be met. In his opinion between twenty and thirty new subscribers can be immediately obtained. Mr. Manley further testified that a large portion of the company's revenues is obtained from toll service, and that the line extending southward

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from Crescent City was in unsatisfactory condition. To relocate 21 miles of this line on the state highway and to provide for additional poles will cost about $1,500 and will result in a saving in maintenance charges and in better service.

Applicant is of the opinion that its revenues will be ample to take care of its increased fixed charges.

I herewith submit the following form of order:

ORDER.

Del Norte Peoples Telephone Company having applied to the Railroad Commission for permission to execute a mortgage and to issue a note, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Del Norte Peoples Telephone Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed with the petition herein as Exhibit "B" and to issue at not less than par a note in the principal amount of $4,000.

The authority herein granted is subject to further conditions as follows:

1. The note herein authorized shall bear interest at not exceeding eight per cent per annum and shall mature on or before five years after date of issue.

2. The proceeds from the issue of the note herein authorized may be used to refund the indebtedness and to pay for the improvements, additions and betterments to which reference is made in this application and in the foregoing opinion.

3. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

4. Applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

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6. The authority herein granted will apply only to such mortgage as may be executed and to such note as may be issued on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of September, 1922.

DECISION No. 10957.

IN THE MATTER OF THE APPLICATION OF THE LOOKOUT MOUNTAIN PARK LAND AND WATER COMPANY FOR INCREASE AND ADJUSTMENT OF RATES AND RULES FOR WATER SERVICE UPON THEIR SUBDIVISION IN LOS ANGELES COUNTY, CALIFORNIA.

Application No. 8112.
Decided September 7, 1922.

RATES—WATER UTILITY—DEVELOPMENT STAGE—FULL RETURN.—Applicant's business being still in the development stage, it is held it would be unreasonable to require the present consumers to pay a rate for water service that would yield to the utility a full return on its investment.

Hunsaker, Britt and Cosgrove, by *T. B. Cosgrove*, for Applicant.

BY THE COMMISSION.

OPINION.

Lookout Mountain Park Land and Water Company, applicant herein, is a public utility engaged in the business of supplying water for domestic purposes to its consumers in the tract known as Lookout Mountain Park, in Los Angeles County. In this proceeding applicant asks authority to increase its rates, alleging in effect that the revenue received from the sale of water under the present rate schedule is inadequate to meet even the current expenses connected with the operation of the system; also that the conditions under which applicant's water system is operated are quite similar to those of the Laurel Canyon Land Company, which adjoins Lookout Mountain Park on the east, and that applicant would be satisfied with the rate schedule established for the water service rendered by the Laurel Canyon Land Company. The latter rate schedule was established by this Commission's Decision No. 10072, decided February 8, 1922.

In addition to an adjustment of the rate schedule applicant asks permission to file rules and regulations governing the supply of water to its consumers similar to those of the Laurel Canyon Land Company, which have been accepted for filing by the Commission.

A public hearing was held in this matter before Examiner Williams at Los Angeles, of which applicant's consumers were duly notified and given an opportunity to appear and be heard.

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The evidence shows that the Lookout Mountain Park Land and Water Company's water system was installed in 1909 and 1910, primarily to aid in the sale of its real estate. The water supply for the system is obtained from a pit in the canyon at the lower end of the tract. From the pit it is pumped directly into the distribution system, consisting principally of two-inch main lines, terminating in storage reservoirs, of which there are two, with a combined capacity of 66,000 gallons.

The district served is in the foothill region. Considerable difference in elevation exists between the various service connections on the system, the upper reservoir being 550 feet above the pumping station.

There are some 24 consumers being supplied by applicant at the present time, at a flat rate of $1.50 per month, although the Commission was advised by letter from applicant under date of June 19, 1912, that the rate in effect at that time was as follows: a minimum charge for each dwelling $1.50 per month, which allows the consumer 6000 gallons; for all use over 6000 gallons, at the rate of 15 cents per 1000 gallons.

Mr. J. G. Hunter, one of the Commission's hydraulic engineers, submitted an estimate of the original investment in applicant's operative property. This estimate shows the original cost of the system to be $7,722. Depreciation annuity, computed by the sinking fund method, was given as $138, and the annual reasonable maintenance and operating expenses as $750.

The operating revenues were shown to be as follows: 1918, $174.17; 1919, $169.55; 1920, $165.20; 1921, $235.50.

The evidence shows an installation at the present time of more than 12,000 feet of pipe in the distribution system, which is equivalent to over 500 feet for each consumer. It is evident from the foregoing that applicant's business is still in the development stage and it would be unreasonable to require the present consumer to pay a rate for water service that would yield to the utility a full return on its investment.

One of applicant's consumers testified that the service and quality of the water is very unsatisfactory, and that this condition has existed for some time. It was explained that the pressure at times was excessive, causing considerable inconvenience and expense, due to breaks in the plumbing within the consumers' houses; that at other times there was no water available; that the water was unfit for domestic purposes due to pollution from small animals and debris getting in the reservoirs.

It is evident from the testimony that applicant should be required to make the necessary improvements to reduce the pressure at the services on the lower levels to a reasonable amount; also that the tops of the reservoirs should be kept in repair to protect the quality of the water. Recently the utility has replaced the gas engine, which operated the pump, with an electric motor. This should improve the service by eliminating the difficulty experienced in operating the engine. The

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establishment of an equitable metered rate should also improve the service in that it will tend to prevent wasteful and unnecessary use of water.

After considering the evidence it appears reasonable that this applicant be granted the same rate schedule for water service as was granted the Laurel Canyon Land Company. This schedule should produce a slightly greater revenue than the one now in effect, and should reduce the operating expenses by eliminating wasteful uses of water, and put the charges on an equitable basis, but will leave little, if any, funds applicable as return upon the investment.

ORDER.

Lookout Mountain Park Land and Water Company, a corporation, having made application to this Commission for an increase and adjustment of the rates charged for water to consumers in the subdivision known as Lookout Mountain Park, in the vicinity of Los Angeles, and for the establishment of rules governing such service, a public hearing having been held on said application and the matter now standing submitted:

It is hereby found as a fact that the rates now charged by said Lookout Mountain Park Land and Water Company for service rendered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

It is hereby further found as a fact that the service heretofore rendered by said applicant has been unsatisfactory and insufficient at times.

And basing its order on the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, by the Railroad Commission of the State of California that the Lookout Mountain Park Land and Water Company be and it is hereby authorized and directed to file with this Commission the schedule of rates hereinafter designated, such rates to become effective as directed in a supplemental order of this Commission to be issued after satisfactory compliance with the following conditions:

1. Lookout Mountain Park Land and Water Company shall within twenty (20) days of the date of this order submit to the Railroad Commission for its approval plans for the improvement of its water service, said plans to contemplate the reduction of excessive pressures to those of its consumers on the lower portion of its system, and such repairs to its reservoirs as will make safe from outside pollution the quality of the water stored in its reservoirs.

2. Upon receiving approval from this Commission of the plans submitted, applicant shall forthwith proceed to make such improvements.

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Upon completion of the improvements applicant shall notify the Commission to that effect, and file the following schedule of rates:

Meter Rates.

Monthly Minimum Charges:	
⅝ inch meter	$1 50
¾ inch meter	1 75
1 inch meter	2 00
1½ inch meter	2 50
2 inch meter	3 00
3 inch meter	4 00
Monthly Meter Rates:	
From 0 to 400 cubic feet, per 100 cubic feet	$0 375
From 400 to 1000 cubic feet, per 100 cubic feet	30
From 1000 to 5000 cubic feet, per 100 cubic feet	25
Over 5000 cubic feet, per 100 cubic feet	20

Monthly Flat Rates.

Residence of 5 rooms or less, occupied by a single family	$1 25
For each bath tub	25
For each toilet	25
For each additional room	15
Sprinkling or irrigation of lawns, shrubbery, etc., for each square yard actually irrigated	005

Meters may be installed at the option of either the consumers or the utility.

It is hereby further ordered, that Lookout Mountain Park Land and Water Company be and the same is hereby directed to file with this Commission within thirty (30) days of the date of this order a schedule of rules and regulations to govern its relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this seventh day of September, 1922.

DECISION No. 10962.

IN THE MATTER OF THE APPLICATION OF DEL MONTE LIGHT AND POWER COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE RIGHTS AND PRIVILEGES UNDER FRANCHISE AWARDED TO IT BY THE BOARD OF SUPERVISORS OF MONTEREY COUNTY.

Application No. 8095.
Decided September 7, 1922.

CERTIFICATE—ELECTRIC UTILITY—ILLEGAL EXTENSION.—In the instant case the Commission found that there was no good reason why public convenience and necessity will be served by giving a small isolated portion of Monterey County to the Del Monte Company, a company closely connected with Coast Valleys Company and operated by the latter's staff, depending upon Coast Valleys Company for its power and at a disadvantage owing to the scattered condition of its business. It is declared that it was the duty of Coast Valleys Company to have served this district and that Del Monte Company acted beyond its rights in extending its lines into this territory.

Carmel Martin, for Del Monte Light and Power Company.
J. F. Pollard, for Coast Valleys Gas and Electric Company.

BENEDICT, *Commissioner.*

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OPINION.

Del Monte Light and Power Company, an electric utility, purchasing electric power from Coast Valleys Gas and Electric Company and distributing it in a limited portion of Monterey County, requests that the Commission grant it a certificate that public convenience and necessity require the exercise by it of a franchise awarded to Del Monte Light and Power Company by the board of supervisors of the county of Monterey on the 17th day of July, 1922.

The franchise covers the entire unincorporated territory of Monterey County, and in its petition applicant asks for a certificate to exercise the rights under the franchise without limitation. At the hearing, however, applicant stated that it would be satisfied with a certificate to serve in that portion of Monterey County east of the Del Monte Hotel known in general as the Seaside and East Monterey Districts.

Del Monte Light and Power Company was incorporated March 11, 1919, and took over the electric distribution property owned and operated by the Pacific Improvement Company, which company was then serving a limited number of consumers in and adjacent to Pebble Beach and a few consumers adjacent to its line in Pacific Grove. At that time Del Monte Light and Power Company was obtaining its power from the steam plant located at Hotel Del Monte. In the early part of 1921 the stock of the Del Monte Light and Power Company was purchased by Mr. D. C. Morris of New York, and thereafter the company commenced purchasing electric energy from the Coast Valleys Gas and Electric Company's steam plant in Monterey and discontinued purchasing power from the Del Monte Hotel plant.

Coast Valleys Gas and Electric Company serves all of Monterey County in which there is sufficient electric business to justify such service, including both incorporated and unincorporated territory, except that portion of the county in and adjacent to Pebble Beach and part of Pacific Grove, and has a franchise throughout the entire county and the right to extend its lines to all of the territory.

An informal complaint was filed with this Commission, in which the East Monterey Improvement Association requested service from the Coast Valleys Gas and Electric Company. Coast Valleys Gas and Electric Company, however, contended that the Del Monte Company could serve the territory in question more cheaply and urged that the Del Monte Company serve the district. The Del Monte Company, whose general manager is vice president of the Coast Valleys Company, has finally entered into negotiations to serve East Monterey and has obtained from the county a franchise giving it authority to use the streets for that purpose. Applicant has obtained from the improvement association and the board of supervisors a statement urging the granting of a certificate to Del Monte Company.

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The evidence indicates that prior to the taking over of the stock of the Del Monte Company by Mr. Morris the company had served no consumers east of Monterey; that it had a line, however, from the steam plant at the Del Monte Hotel southward through Monterey and Pacific Grove to Pebble Beach. It is therefore very evident that the territory east of Monterey can not be considered as a part of the territory adjacent to the territory served by the Del Monte Company or necessary in the regular course of its business. In the latter part of 1921 the Del Monte Company, without either franchise or certificate, extended its lines east of Del Monte Hotel to serve approximately 20 consumers in and adjacent to Seaside. The new extension in East Monterey for which a certificate is now requested is to be made from the line supplying Seaside and the applicant urges as one reason for the granting of a certificate in this district that it will be cheaper for it to serve than the Coast Valleys Company.

Applicant is at present serving about 70 consumers located in Pebble Beach and Seaside and the southern part of Pacific Grove. Between the two sections the Coast Valleys Company is serving, without competition, the cities of Pacific Grove and Monterey. The evidence indicates a very close relationship between the two companies. There appears no good reason why public convenience and necessity will be served by giving a small isolated portion of the county to the Del Monte Company, a closely connected company operated by Coast Valleys Company staff, depending on it for its supply of power and at a disadvantage owing to the scattered condition of its business. It is very apparent that it was the duty of the Coast Valleys Company to have served the district now desiring service and the consumers east of Hotel Del Monte served by the Del Monte Company. It is also apparent that the Del Monte Company has acted beyond its rights in extending its lines in this district.

The rate schedules of both companies are on file with the Commission as required by law. The Del Monte Company quotes but one schedule, entitled "General Service—Available for lighting, cooking and power service," which is slightly lower than the present lighting rate under which Coast Valleys Company would supply the district now in question. Coast Valleys Company, on the other hand, quotes rates for cooking and power service which are much lower than the single schedule of the Del Monte Company. The files of the Commission show that the differential between the rates quoted by the two companies for cooking and power service has already been a source of complaint from consumers now served by Del Monte Company, and in this proceeding Del Monte Company refused to agree that if granted the desired certificate it would put into effect rates no higher than those that are now effective or from time to time may be made effective in similar territory on Coast Valleys' system. Considering the fact that many of the applicants for

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service from the proposed line extension have signified an intention of using electricity for power purposes as well as for lighting, an advantage rather than a disadvantage to the district in question would be likely to result if the Coast Valleys Company supplied service instead of Del Monte Company.

I recommend that the application of Del Monte Company be denied; that a proceeding be instituted at once by the Commission to the end that Coast Valleys Gas and Electric Company may be ordered to serve East Monterey and that Del Monte Company be ordered to continue service to consumers at present served, pending either a transfer of its properties east of Hotel Del Monte to Coast Valleys Company or the extension of the system of Coast Valleys Company, to serve these consumers.

ORDER.

Del Monte Light and Power Company having applied to this Commission for an order to exercise certain rights under franchise obtained on July 17, 1922, from the board of supervisors of Monterey County, hearing having been held and the matter being submitted;

It is hereby ordered:

1. That the application be and the same is hereby denied.

2. That Del Monte Light and Power Company continue service to those consumers now served in Seaside and vicinity, pending further order of this Commission.

The foregoing is approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of September, 1922.

DECISION NO. 10977.

TOWN OF CORTE MADERA

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1709.

Decided September 8, 1922.

John J. Mazza, for Town of Corte Madera.
Stanley Moore, for Northwestern Pacific Railroad Company.

BY THE COMMISSION.

OPINION.

In this proceeding the town of Corte Madera has complained of the alleged dangerous conditions existing at two grade crossings at First street and Redwood avenue, respectively, over the tracks of the Northwestern Pacific Railroad Company, and asks that automatic warning

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signals be installed by the railroad company at these crossings. An answer was filed and a public hearing held before Examiner Gordon on April 12, 1922, at Corte Madera.

The town of Corte Madera, a suburban community, with a population of approximately 650 people, is situated on the Northwestern Pacific Railroad at the base of Mount Tamalpais, 12.6 miles from San Francisco. The railroad passes through the town in a northerly and southerly direction, and is crossed by First street and Redwood avenue, both of which connect with the state highway, located approximately 200 feet west of the railroad and at a slightly higher elevation. The railroad station is also on the westerly side of the track and between the two streets, which are approximately 350 feet apart. The principal stores and places of business of the community are located on the easterly side of the track on Railroad avenue, a thoroughfare which is adjacent and parallel to the railroad right of way.

First street, the more southerly of the two in question, crosses the track at an angle of about sixty degrees. It is in a poor state of repair on each side of the crossing and is little used on account of its steep grades at that point. The approach to the track from the east is on a 15 per cent grade and the ascent from the track westerly is at a 10 per cent grade. The testimony shows that, because of the steep grade of the street, automobiles approaching the track from the east are required to shift to a lower gear immediately before reaching the railroad and frequently become stalled on the tracks at the point of crossing. The view of trains approaching from the south is almost totally obstructed due to the fact that the track at this point is on a curve around a hill.

In view of those circumstances, we are of the opinion that this crossing is a particularly dangerous one and can not be adequately protected by a warning signal device. The only proper remedy for such a condition is either a separation of grades or an abolition of the crossing. In this instance a separation of grades is not warranted by reason of the great expense involved. On the other hand, if this crossing is abolished, no serious public inconvenience will result, as nearly all the traffic at present moves over the Redwood crossing, and the few residents at present living on First street, between the railroad and the highway, will not be required to travel more than 400 feet further to use the Redwood avenue crossing rather than the route now available over First street, in order to get to the stores on the east side of the track.

Redwood avenue, the more northerly of the two streets in question, carries the bulk of the traffic across the tracks at Corte Madera. It is in good repair, crosses the tracks at approximately right angles with an approach from the east on a grade of 11 per cent and an ascent from the track to the west of 6 per cent. The view of trains by vehicles approaching this crossing from the east is practically unobstructed,

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except at such times as cars may be standing on a spur track located north of the crossing. From the westerly side, there is a reasonably clear view to the south for a distance of approximately 700 feet. The view to the north, however, is quite seriously obstructed, both by buildings located on private property and by an embankment along the west side of the track six feet or more in height. Traffic counts taken a short time before the hearing and submitted in evidence show that Redwood avenue is a relatively important crossing. This is further borne out by the fact that the nearest crossing north thereof is an overhead crossing, approximately 1000 feet distant, while to the south, the nearest crossing other than First street is about 2½ miles away and on the other side of an intervening hill.

Further evidence of the dangerous condition of both crossings in question is shown by the number of trains passing through Corte Madera daily. The railroad company at the present time operates 92 electric passenger trains, 16 steam passenger trains and 4 freight trains per day over this track. Of this number, approximately 10 per cent stop at Corte Madera. According to the testimony, the speed of the trains which do not stop varies from 20 miles to 40 miles per hour at these crossings. Evidence was also introduced showing that serious accidents have occurred in the past at both crossings.

After careful consideration of all the evidence submitted, the Commission hereby makes its findings of fact as follows:

1. The existing crossing of First street over the tracks of the Northwestern Pacific Railroad in the town of Corte Madera is dangerous to the traveling public using such crossing, and it is in the interest of the public welfare and safety that said crossing be abolished.

2. The existing grade crossing of Redwood avenue over the tracks of the Northwestern Pacific Railroad in the town of Corte Madera is dangerous to the traveling public using said crossing, and it is necessary, in order to promote and safeguard the safety and welfare of the public and of the employees and passengers of said railroad, to install and maintain at said crossing an automatic wigwag warning signal device.

ORDER.

Basing its order upon the foregoing findings and other statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the crossing of First street over the tracks of the Northwestern Pacific Railroad Company in the town of Corte Madera, Marin County, California, be and the same is hereby abolished, and the Northwestern Pacific Railroad Company shall, within sixty (60) days from the effective date of this order, effectively close said crossing to public use and travel.

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It is hereby further ordered, that the Northwestern Pacific Railroad Company, at its sole expense, shall, within sixty (60) days from the effective date of this order, install and thereafter maintain at the crossing of Redwood avenue over its tracks in the town of Corte Madera, Marin County, California, an automatic flagman, said automatic flagman to be of a type, and installed in accordance with plans or data, approved by the Commission, and shall notify this Commission, in writing, of the installation of said warning signal within thirty (30) days after such installation is completed.

Dated at San Francisco, California, this eighth day of September, 1922.

DECISION No. 10978.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY, AND MIDWAY GAS COMPANY AS LESSEE OF ALL THE PROPERTIES OF SAID VALLEY NATURAL GAS COMPANY, FOR AN INCREASE IN RATES FOR THE SALE AND DISTRIBUTION OF NATURAL GAS ON THE SYSTEM OF THE VALLEY NATURAL GAS COMPANY.

Application No. 7951.

Decided September 8, 1922.

RATES—GAS UTILITY—COLLATERAL ATTACK.—The contention by certain consumers of the San Joaquin Light and Power Corporation of the right to intervene in the instant case on the ground that increased gas rates would increase the operating costs of the power utility; also that owing to common ownership, the stockholders of the San Joaquin Corporation would be deflecting excess earnings of the power company to the gas company, was not sustained. The Commission declared that if the San Joaquin Light and Power Corporation was earning more than a fair return, it was a matter for consideration in a case involving that company's rates.

Jared How and *Thos. J. Reynolds*, for Applicant.
F. S. Brittain, for California Farm Bureau Federation, Kern County Farm Bureau, and E. Easton.

BY THE COMMISSION.

OPINION.

In this application by Valley Natural Gas Company, and Midway Gas Company as lessee of the properties of Valley Natural Gas Company, it is alleged that applicants have recently, by the terms of certain contracts, become obligated to pay an increased price of 3 cents per thousand cubic feet for the greater portion of gas purchased and sold on the system of the Valley Company. Because of the increased cost of gas purchased, applicants ask that they be granted an increase of 2 cents per thousand cubic feet (with a maximum price of 14 cents per thousand cubic feet) for all gas sold for industrial and wholesale purposes on its Valley Division in the Kern River, Elk Hills and Midway oil fields and adjacent territory.

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A public hearing was held on this matter in Bakersfield by Examiner Westover, at which time evidence was submitted by applicant. It was agreed that certain additional reports and data requested by the Commission's engineers should, when filed, be considered in evidence. Those have been filed, and the matter is now ready for decision.

Midway Gas Company in 1919 leased all of the properties of the Valley Natural Gas Company and subsequently purchased the capital stock of the latter, thereby making Midway Gas Company the lawful owner of the Valley Natural Gas Company. With the acquisition of the Valley system there were obtained certain contracts for the purchase of natural gas from various oil operators, chief among which was the contract for the purchase of gas from the Standard Oil Company.

This contract provided for the purchase of natural gas for 5 cents per thousand cubic feet, and further, that upon demand, Standard Oil Company would construct a compressor plant for delivering compressed gas at a pressure of 250 pounds per square inch. Such plant was duly built and put into operation. The term of this contract was for five years with provision for renewal for further periods of five years each with revision of prices with each renewal. Under date of September 29, 1917, the parties to this contract entered into a supplemental agreement which provided for the payment of 1 cent additional or 6 cents per thousand cubic feet for all compressed gas delivered by Standard Oil Company. By the terms of a further modification and renewal of this contract, required by Standard Oil Company, it was provided by an agreement dated June 12, 1922, that Valley Natural Gas Company should pay Standard Oil Company a price of 5 cents per thousand cubic feet for all uncompressed gas and a price of 9 cents for all compressed gas, this latter price being an advance of 3 cents per thousand cubic feet over the previous price of compressed gas. Investigation was made by Midway Gas Company representatives of the actual cost to the Standard Oil Company for compressing such gas and it was testified to in the proceeding that 9 cents per thousand cubic feet was, in their opinion, a reasonable price for this gas.

Because of depletion of the natural resources of gas of the Midway field, which originally supplied the predecessor of the Valley Company, it has now become necessary for the latter to obtain its principal supply from the Elk Hills and Tupman fields. At this time there is a large quantity of casing head gas being produced, and in order to prevent the wastage of this, it must be marketed by the Valley Company, which necessitates compression of the gas in order to force it into the transmission lines for field distribution. Because of this situation in the oil fields it is necessary to compress by far the major portion of gas purchased from Standard Oil Company. Additional gas is also purchased by Valley Natural Gas Company from the Pacific Oil Company,

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and an agreement is now being negotiated in which it appears that Valley Natural Gas Company will be forced to pay an increase of 1 cent per thousand cubic feet for gas obtained from this source.

Some three weeks after the hearing the Commission received a protest filed by the California Farm Bureau Federation, Kern County Farm Bureau and E. Easton, by F. S. Brittain, their attorney, in which it is requested that the application in this proceeding be denied or, in the alternative, that the matter be reopened by proper order of the Railroad Commission and a date of hearing set, giving them an opportunity to be present at said hearing to show cause, if any there be, why said application shall be denied. Protestants allege that they are not direct consumers of natural gas supplied by Valley Natural Gas Company but that they represent, through their constituent members, many hundred consumers of electric energy produced in part by the use of natural gas supplied by the present applicants to the San Joaquin Light and Power Corporation and the rates for electric energy supplied by that corporation are directly responsive to the price paid by it for natural gas delivered to it; that in this Commission's Decision No. 10348, fixing electric rates on the San Joaquin Light and Power Corporation system, said rates and schedules were determined in a large part upon evidence of the cost and estimated cost of natural gas.

It appears from Decision No. 10348 that the total cost of fuel, including oil and gas, which was estimated for the year 1922 was $169,500 out of a total cost of service in excess of $5,000,000. Were the application of Valley Natural Gas Company granted in its entirety, the effect would be an increase of less than six-tenths of one per cent in the total cost of service on San Joaquin Light and Power Corporation system. We can not conclude from a consideration of that decision that the rates and schedules were determined therein in a large part upon the evidence of the cost and estimated cost of natural gas supplied, nor can we conclude that the rates for electric service are directly responsive to the price paid for natural gas by this company. Cost of natural gas is a part of the cost of that service, but it does not follow that rates will be raised as a result of any increase in gas cost or rates reduced immediately were the gas price reduced.

Protestants further allege that the operating income of San Joaquin Light and Power Corporation under the rates established by Decision No. 10348 have been proportionately much greater than was estimated by representatives of the company or the Commission's engineers and that they fear that by this application of Midway Gas Company to increase rates the San Joaquin Company will find a means of disposing of alleged excess profits through dividends to stockholders of the Midway Gas Company who, it is alleged, are largely the same persons as those holding stock in the San Joaquin Light and Power Corporation.

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These allegations do not directly affect the question of just and reasonable rates to be charged on the Valley Natural Gas Company's system. If San Joaquin Light and Power Corporation is earning more than a fair return, that is a matter for consideration in a case involving the San Joaquin system and not the Valley Natural Gas Company's system. If Valley Natural Gas Company is entitled to an increase in rates based upon a fair return for its services, that increase should not be withheld pending investigations based upon protestants' allegations. Valley Natural Gas Company is faced with a material increase in cost of operation, due to the increase in prices which it has been forced to pay for gas. At the present time it receives an average of between 9 and 10 cents per 1000 cubic feet for practically all industrial gas sold. The present rates were based on a purchase price of 5 and 6 cents per 1000 cubic feet, making a difference of approximately 4 cents per 1000 cubic feet to cover cost of transmission and distribution. Applicants submit in this proceeding exhibits showing a total increase in cost of purchased gas of approximately $340,000 for the year ending July 31, 1923, over the year ending May 31, 1922. They also estimate an increase of approximately $140,000 in production costs, a result of the installation of a compressor plant for the compression of gas obtained from the Pacific Oil Company. The sum of these two increases applied to the estimated sales of gas of the Valley Natural Gas Company's system for the coming year represents an increase in cost per 1000 cubic feet of 3.12 cents. The increase asked for is approximately 2 cents per 1000 cubic feet for industrial gas and would represent a total increase in revenue of $295,000 or 1.92 cents per 1000 cubic feet of total sales.

Applicants submit, in Exhibit No. 4, their estimate of operating expenses for the year ending July 31, 1923, under present rates and under the rates they apply to, have made effective. Table No. 1 sets forth the company's estimate of revenue and expense for the year based upon the rates requested:

TABLE No. 1.

Application No. 7951.

Valley Natural Gas Company and Midway Gas Company.

Estimated operating statement for year ending July 31, 1923.

	Based on increased costs and company's proposed schedule.
Revenue, gas sales—	
Domestic	$25,304 80
Gas engine	52,048 98
Industrial	1,546,100 00
Wholesale	205,321 60
Total revenue	$1,828,775 38

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Expenses—		
Natural gas purchased	$1,202,879 35	
Other production expenses	153,835 69	
Transmission	24,076 61	
Distribution	35,752 88	
Commercial	30,024 31	
General	37,127 63	
Taxes	93,623 59	
Uncollectible bills	1,012 70	
Total operating expenses		$1,578,332 76
Return for interest and amortization		$250,442 62
Rate base, company's estimate		1,628,837 51

Rate for depreciation and return on company's estimated rate base, 15.37%.

A study of the detailed exhibits required to be filed by the Commission as evidence in this proceeding, indicates that in this estimate applicants have included the total increase in cost of gas obtained from the Midway and Elk Hills fields under the contract with the Standard Oil Company and Pacific Oil Company. It has also included the estimated cost of operation of the compressor plant installed for making available casing head gas to be obtained from the Pacific Oil Company.

It appears that approximately 30 per cent of the gas obtained under these contracts is transmitted to the Midway Gas Company's main system. Due to physical conditions the gas transmitted to the Midway Company is largely from the high pressure wells and is not compressed. The Commission does not consider, however, that it is reasonable to charge all of the increased cost to the Valley Division. The increased cost of gas should be averaged over all gas taken under the Valley Natural Gas Company contracts and Midway Gas Company should bear its full proportion of the cost although physical limitations make necessary the delivery of gas to that system that is purchased at 5 cents per 1000 cubic feet. Deduction should be made in the estimated operating expenses of $98,000 from cost of purchased gas and $43,500 from the cost of compression.

The increase in cost of gas to Valley Natural Gas Company over past conditions will, under the changed conditions, be approximately 2 cents per 1000 cubic feet.

Since this application was filed and hearings held, the price of oil has been reduced 50 cents per barrel and it is believed that the Commission should take judicial notice of this fact. The purchase price of crude oil in the field is now 60 cents per barrel, which is equivalent on a comparative fuel value to between 10 and 12 cents per 1000 cubic feet of gas. Waste of use, however, in many cases results in a some-

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what higher value. Practically all of the gas served by Valley Natural Gas Company for which an increase in rate is asked is directly in competition with fuel oil, and it is apparent that the rates to be charged can not be in excess of the value of service as determined by competition.

The earnings of Valley Natural Gas Company system are such that a part of the increase in cost should be absorbed by it without reducing the rate of return below a reasonable rate. The rate herein fixed will still be at least equal to or less than the value of the service based upon competitive conditions.

Table No. 2, herein, sets forth the estimated revenue and expense based upon the year ending July 31, 1923, under the rates as set forth herein.

TABLE No. 2.

Application No. 7951.

Valley Natural Gas Co. and Midway Gas Co.
Valley System.

Estimated operating statement for year ending July 31, 1923.

Based upon Commission's estimate.

Revenue—		
Gas sales		$1,698,675 00
Operating expenses—		
Production:		
Natural gas purchased	$1,104,680 00	
Other expenses	110,000 00	
Transmission	24,075 00	
Distribution	35,750 00	
Commercial	30,025 00	
General	37,125 00	
Total operating expenses		$1,341,655 00
Taxes—		
State and federal		93,620 00
Uncollectible bills		1,000 00
Total		$1,436,275 00
Net available for depreciation return		$262,400 00
Estimated rate base		1,550,000 00

Rate for depreciation and return on estimated rate base, 16.91%.

The allowance for depreciation heretofore found reasonably applicable to a natural gas system such as this in which the life of the property depends mainly on the continued life of the oil fields, has been 7 per cent per annum. Allowing this rate of depreciation, the net return to be obtained under proposed rates will be approximately 10 per cent, which return appears to us to be reasonable when consideration is given to the nature of the service, uncertain life of the oil fields and volume of business.

The rates herein authorized represent an increase of 1 cent per 1000 cubic feet for industrial service in the Midway fields, 1 cent per 1000

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cubic feet in the Elk Hills fields, 2 cents per 1000 cubic feet in the Kern River fields, 2 cents per 1000 cubic feet for resale to West Side Gas Company, 1¼ cents per 1000 cubic feet for resale to the San Joaquin Light and Power Corporation at Bakersfield and 1 cent per 1000 cubic feet for steam plant operation to San Joaquin Light and Power Corporation.

ORDER.

Valley Natural Gas Company, and Midway Gas Company as lessee of the properties of Valley Natural Gas Company, having applied to the Railroad Commission for an order granting authority to increase the rates for natural gas sold for industrial purposes, wholesale purpose to other utility companies and for the operation of the steam driven electric generating plants of San Joaquin Light and Power Corporation, a public hearing having been held and the matter having been submitted and being now ready for decision, the Railroad Commission of the State of California hereby finds as a fact that the industrial and wholesale rates now being charged upon the system of Valley Natural Gas Company, in so far as they differ from the rates herein fixed, are not just and reasonable rates, and that the rates herein established are just and reasonable rates for gas for industrial and wholesale service.

Basing its order upon the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Valley Natural Gas Company, and Midway Gas Company as lessee of the properties of Valley Natural Gas Company, be and they are hereby authorized to charge and collect the following rates for gas for industrial and wholesale service in the several districts of the Valley Division of Midway Gas Company, which rates shall be effective for all regular meter readings taken on and after the first day of October, 1922.

SCHEDULE No. B-3.

Valley Division.

Industrial Service.

Applicable to the sale of surplus natural gas for fuel purposes in boilers, furnaces, forges, etc.

Territory.

Applicable to District No. 1, being territory adjacent to the distributing lines of the Valley System in the Midway fields and on the Bakersfield transmission line west of and including Rio Bravo.

Rate.

Ten cents per 1000 cubic feet.

Special Conditions.

Service is subject to discontinuance without notice in case of a shortage of gas.

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SCHEDULE No. B-4.

Valley Division.

Industrial Service.

Applicable to the sale of surplus natural gas for fuel purposes in boilers, furnaces, forges, etc.

Territory.

Applicable to District No. 2, being territory adjacent to the distributing lines of the Valley System in the Kern River fields and on the Bakersfield transmission line east of Rio Bravo.

Rate.

Twelve cents per 1000 cubic feet.

Special Conditions.

Service is subject to discontinuance without notice in case of a shortage of gas.

SCHEDULE No. B-5.

Valley Division.

Industrial Service.

Applicable to the sale of surplus natural gas for fuel purposes in boilers, furnaces, forges, etc.

Territory.

Applicable to District No. 3, being territory adjacent to the eight-inch pipe line beginning at Elk Hills and terminating at the Southern Pacific Railroad at Buttonwillow.

Rate.

Eleven cents per 1000 cubic feet.

Special Conditions.

Service is subject to discontinuance without notice in case of a shortage of gas.

SCHEDULE No. B-6.

Valley Division.

Wholesale Service.

Applicable to gas delivered to other distributing companies as follows:

Territory.

Gas furnished to West Side Gas Company for distribution in the towns of Maricopa, Taft and Fellows, all in Kern County.

Rate.

Twelve cents per 1000 cubic feet.

Special Conditions.

Service to such distributing company, for supplying its domestic and commercial consumers only, has precedence over gas engine and industrial service.

SCHEDULE No. B-7.

Valley Division.

Wholesale Service.

Applicable to gas delivered to other distributing companies as follows:

Territory.

Gas furnished to San Joaquin Light and Power Corporation for distribution in the City of Bakersfield and vicinity and for use in its steam plants at Bakersfield and Buttonwillow.

Rate.

Class A—

For all gas supplied for distribution to domestic, commercial and industrial consumers, fourteen cents per 1000 cubic feet.

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Class B—

Excess gas furnished San Joaquin Light and Power Corporation's steam plants at Bakersfield and Buttonwillow, eleven cents per 1000 cubic feet.

Special Conditions.

(a) Consumers under Class A have priority of service over consumers under Class B.

(b) Service to such distributing companies, for supplying their domestic and commercial consumers only, has precedence over gas engine and industrial service.

It is hereby further ordered, that Valley Natural Gas Company and Midway Gas Company shall file with the Railroad Commission on or before October 1, 1922, the schedule of rates and charges herein set forth.

It is hereby further ordered, that the petition filed by California Farm Bureau Federation, Kern County Farm Bureau and E. Easton, be and the same is hereby denied.

Dated at San Francisco, California, this eighth day of September, 1922.

DECISION No. 10980.

IN THE MATTER OF THE APPLICATION OF THE RIVERDALE WATER COMPANY FOR AN ORDER AUTHORIZING INCREASE OF WATER RATES.

Application No. 7898.

Decided September 14, 1922.

RATES—WATER UTILITY—METERED SERVICE.—In the present case a metered rate is authorized to enable applicant to conserve water and reduce pumping costs. Meters may be installed on services where consumers have displayed a tendency to be careless or wasteful in the use of water, or where the consumers prefer measured service.

RATES—CAPITAL ACCOUNT—BASIS OF RATE FIXING.—The Commission points out that applicant is laboring under a misapprehension in requesting an increase in rates sufficient to provide capital for extension of mains and improvements to plant. Rates are established by the Commission upon the fair value of the used and useful property dedicated to and reasonably necessary for the public service, considering also the necessary and proper allowance for operating and maintenance costs and a proper replacement annuity.

Ernest Klette, for Applicant.

BY THE COMMISSION.

OPINION.

The applicant in the above entitled matter, doing business under the fictitious name of Riverdale Water Company, is a public utility owned by the estate of R. T. Barritt, deceased, and operated by B. F. Barritt, executor. This company furnishes water for domestic and commercial purposes to the inhabitants of Riverdale, Fresno County.

The application in this proceeding alleges that the present rates charged for water service are not adequate to yield a reasonable rate of interest upon the investment and are insufficient to enable the appli-

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cant to make necessary extensions of mains and improvements to meet the growing service demands. The Commission is therefore asked to grant an increase of 25 per cent in the water rates, or such other increase as may be considered just and reasonable under the circumstances, in order to enable applicant to make said improvements and also receive a reasonable return upon the capital invested.

A public hearing was held in this matter before Examiner Satterwhite at Riverdale. All interested parties were given an opportunity to be present and to be heard.

The water supply for this system is obtained by pumping from three drilled wells, two of which are 5 inches in diameter and 66 feet deep and the third 8 inches in diameter and 150 feet deep. Water is stored in a 5000-gallon galvanized iron tank elevated about 40 feet above the ground surface. There are two 2-inch single stage centrifugal pumps, direct connected to 5-horsepower electric motors which are controlled by automatic float switches. The distribution system consists of approximately 8155 feet of standard screw, galvanized iron pipe, 595 feet of which is 4-inch, 5000 feet is 2-inch and the remainder 1½-inch pipe.

There are no meters on this system. On July 1, 1922, there were 78 active services.

The present rates were fixed by R. T. Barritt in 1912 and are as follows:

Monthly Flat Rates.

Single rooms with one tap	$1 00
Residence with no lawn	1 35
Residence with lawn and garden	1 60
Livery stables	2 50
County service and water trough	5 00
Railroad station	5 00

A report was submitted by Mr. M. R. MacKall, one of the Commission's hydraulic engineers, which shows an appraisement of this plant, based upon the estimated original cost, amounting to $4,998, a replacement annuity of $77 computed by the 6 per cent sinking fund method, and recommending as reasonable an allowance of $800 for maintenance and operating expenses. No appraisal of the water utility property of this plant was submitted by the applicant.

A consideration of the evidence leads to the conclusion that the estimates submitted are fair and they will be used for the purposes of this proceeding. Following is a summary of the annual charges outlined above:

Return at 8 per cent on $4,998	$400 00
Replacement fund	77 00
Maintenance and operation expenses	800 00
Total	$1,277 00
Revenues collected for the twelve-month period ending June 30, 1922	$1,531 00

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It appears from the foregoing figures that the applicant is at present realizing slightly more than the annual charges. It necessarily follows, therefore, that the present rates are not yielding an inadequate return upon the investment over and above the costs of maintenance, operation and depreciation. However, the evidence indicates that at certain periods of the summer months the pressure afforded by the present storage tank is insufficient to render proper service to the consumers located in the outlying districts. This condition is to be remedied by the installation of an additional storage tank having a capacity of 30,000 gallons. The cost of erection of this tank and the installation of a few meters will augment the annual charges so that they will more closely approximate the revenues receivable.

The present flat rate schedule will therefore be allowed to remain in full force and effect, and in addition thereto a meter rate will be authorized which will enable applicant to conserve water and thereby reduce pumping expenses by installing meters on any services where consumers have displayed a tendency to be careless or wasteful in the use of water, or in case a consumer should prefer to receive measured service.

The applicant is laboring under a misapprehension in requesting an increase in rates sufficient to provide capital for extension of mains and improvements to the plant. Rates are established by this Commission upon the fair value of the used and useful property dedicated to the public use and reasonably necessary for such service, considering also the necessary and proper allowance for operating and maintenance costs and a proper replacement annuity. The raising of funds for financing extensive improvements and enlargements of a system must be accomplished through the usual channels.

ORDER.

The Riverdale Water Company having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the present rates charged by applicant are compensatory and remunerative and that the rates herein established for metered water service are just and reasonable rates for such service.

And basing its order upon the foregoing findings of fact and upon the further statements of fact contained in the opinion preceding this order;

It is hereby ordered:

1. That the application of the Riverdale Water Company for authority to increase rates and charges for water service be and it is hereby denied.

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2. That the Riverdale Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water delivered to its consumers in Riverdale, Fresno County, the new meter rates to become effective for all service rendered after October 1, 1922:

(a) The schedule of flat rates now in effect.
(b) *Monthly meter water rates*:

First 500 cubic feet or less	$1 25
From 500 cubic feet to 1500 cubic feet, per 100 cubic feet	20
All over 1500 cubic feet, per 100 cubic feet	15

Meters may be installed at the request of any consumer or at the option of the utility.

It is hereby further ordered, that the Riverdale Water Company be and it is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order a complete schedule of rules and regulations governing the distribution and sale of water to the consumers supplied by it, said schedule to be effective on the date of its acceptance by the Commission.

Dated at San Francisco, California, this fourteenth day of September, 1922.

DECISION No. 10982.

IN THE MATTER OF THE APPLICATION OF THE NORTH MONETA GARDENS LAND AND WATER COMPANY, A CORPORATION, TO SELL THE WATER WORKS DISTRIBUTING SYSTEM AND OTHER PROPERTY OWNED BY IT TO ESTEP AND KOHLER, A PARTNERSHIP.

Application No. 8137.
Decided September 14, 1922.

I. B. Kornblum, for Applicant.
F. W. Shelley and *James Hosick*, by *F. W. Shelley*, for Estep and Kohler.

BY THE COMMISSION.

OPINION.

In this proceeding the North Moneta Gardens Land and Water Company and Estep and Kohler make joint application for authority to transfer the water system serving water to the residents in North Moneta Gardens, a subdivision in Los Angeles County, California, to Estep and Kohler.

A public hearing was held at Los Angeles before Examiner Williams, of which hearing notice was given and all interested parties given an opportunity to appear and be heard.

The testimony shows that the owners of the North Moneta Gardens Land and Water Company are engaged in other business and unable to devote their time to the water utility business. The system has been

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allowed to deteriorate to such an extent that it will necessitate the expenditure of quite a sum of money to replace it in proper repair.

It is the desire and plan of Estep and Kohler to place the system in good condition and use it in connection with a brick works which will be built on a portion of property to be transferred. Mr. Estep will live at or near the plant and will give it his personal attention.

The property to be transferred consists of three (3) acres of land described as the south three acres of lot fifteen (15), in Tract No. 874, together with the well, pumping equipment and buildings thereon, also the water distributing system throughout the North Moneta Garden Lands Subdivision, as shown on a map filed as an exhibit at the hearing of Application No. 5426. The money consideration connected with this transfer is nominal. The system is to be conveyed free with no incumbrances.

It appears that the North Moneta Gardens Land and Water Company desires to withdraw from the public utility business and that the transfer of the system, as indicated, would be in the public interest.

ORDER.

Application having been made to the Railroad Commission as entitled above, wherein the North Moneta Gardens Land and Water Company asks authority to transfer certain public utility described above, to Estep and Kohler, a public hearing having been held thereon, and the matter having been submitted;

It is hereby ordered, that the authority sought in the above entitled application be and it is hereby granted, subject to the following conditions:

1. The property to be transferred consists of the south three (3) acres of lot fifteen (15), in Tract No. 874, as recorded in book 18, page 136 of maps, Los Angeles County records; also all tanks, pumps, motors, piping, buildings, fixtures and appurtenances thereon belonging to the North Moneta Gardens Land and Water Company, and used in connection with its water utility business.

2. Nothing herein contained shall be construed in any proceeding before this Commission, or any other tribunal or public body, as a finding of value of the property herein described.

3. The authority granted herein to transfer said property shall apply only to such transfer as shall have been made on or before November 1, 1922.

4. Within ten (10) days after such transfer shall have been delivered, the transferees shall report that fact in writing to the Commission, together with the date upon which they took possession of said property and began its operation as a public utility, and shall at the same time

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file with the Railroad Commission a copy of the instrument of transfer by which they acquired title to said property.

Dated at San Francisco, California, this fourteenth day of September, 1922.

DECISION No. 10987.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF CLASS "A" SIX PER CENT CUMULATIVE PREFERRED STOCK.

Application No. 7430.

Decided September 14, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

By Decision No. 9964, dated January 4, 1922, in the above entitled matter, the Railroad Commission authorized East Bay Water Company to issue $333,715.10 of Class "A" 6. per cent cumulative preferred stock, subject among others, to the condition that $33,715.10 par value of the stock be sold only for such purposes and at such a price as the Commission may determine by supplemental order.

In Application No. 7823, filed May 4, 1922, East Bay Water Company reported its expenditures on capital account not financed through the issue of bonds or stock at $3,414,342.49. By Decision No. 10435, dated May 10, 1922, in Application No. 7823, the Commission authorized the company to sell at 97½ per cent of their face value $3,000,000 of bonds and at 80 per cent of its par value $504,000 of Class "A" 6 per cent cumulative preferred stock, all for the purpose of financing in part the company's reported construction expenditures. To July 30, 1922, applicant's reports show that it has sold the $504,000 of stock at 80 and $2,200,000 of bonds at 97½. Assuming the remaining $800,000 of bonds are sold at 97½, applicant will realize from the sale of the $3,000,000 of bonds and the $504,000 of stock, a total of $3,328,200, or a sum which is $86,142.49 less than its reported construction expenditures of $3,414,342.49.

In its supplemental petition filed on September 6th, in the above entitled matter, applicant asks permission to use the proceeds obtained from the sale of the $33,715.10 par value of stock to finance construction expenditures.

The Commission has considered applicant's request and believes that it should be granted as herein provided;

It is therefore ordered, that the order in Decision No. 9964, dated January 4, 1922, be and it is hereby modified so as to permit East Bay

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Water Company to issue and sell, for cash, on or before December 31, 1922, at not less than 86½ per cent of its par value and accrued dividends, $33,715.10 par value of its Class "A" 6 per cent cumulative preferred stock and use the proceeds for the purpose of financing in part the construction expenditures reported in Application No. 7430 and in Application No. 7823.

It is hereby further ordered, that the order in Decision No. 9964, dated January 4, 1922, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this fourteenth day of September, 1922.

DECISION No. 10990.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE REFUNDING PROMISSORY NOTES.

Application No. 7740.

Decided September 16, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Whittier Water Company in the above entitled matter asked the Railroad Commission for permission to issue $100,000 of three year 7 per cent notes and, if found necessary, to execute a mortgage or deed of trust to secure the payment of its notes; and

Whereas, the company was unable to advise the Commission at the hearing held in this proceeding whether or not it would be called upon to secure the payment of its notes; and

Whereas, the Commission in authorizing the issue of the $100,000 of notes, Decision No. 10403, dated May 3, 1922, recited that in the event the company desired to secure the payment of its notes, the Commission would, by supplemental order, authorize the execution of a deed of trust; and

Whereas, applicant on September 14, 1922, filed a copy of a proposed deed of trust and requested the Railroad Commission to make its supplemental order authorizing its execution;

And the Railroad Commission having given consideration of applicant's request and being of the opinion that it should be granted as herein provided;

It is hereby ordered, that Whittier Water Company be and it is hereby authorized to execute a deed of trust substantially in the same form as that filed in this proceeding on September 14, 1922, to secure

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the payment of the $100,000 of notes which the Commission authorized to be issued by Decision No. 10403, dated May 3, 1922; provided,

That the authority herein given to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

It is hereby further ordered, that the order in Decision No. 10403, dated May 3, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this sixteenth day of September, 1922.

DECISION No. 10992.

MRS. F. K. MORRI ET AL.

vs.

W. S. B. LAWRIE ET AL.

Case No. 1635.

Decided September 16, 1922.

WATER UTILITY—JURISDICTION—PUBLIC SERVICE—ABANDONMENT.—After a review of the evidence, the Commission holds in the instant case that the pumping plant and distribution system are dedicated primarily to public service and that the defendants can not legally discontinue the public service, thus voluntarily undertaken.

Messrs. Marks and *Launer*, by *Albert Launer*, for Complainants.
Samuel L. Collins, for Complainants.
Jesse George, for Defendants.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

The Commission, in its prior order in this proceeding, rendered December 23, 1921, required the defendants to make the repairs to its pumping plant and distribution system necessary to give adequate service, and also established reasonable rates at which water should be supplied to consumers for domestic uses.

An application for rehearing was filed by the defendants on January 16, 1922, a rehearing granted and the hearing thereon was held before Examiner Gordon at Los Angeles, on March 8, 1922. At the time of hearing, the defendants filed a formal answer to the complaint, in which they denied the Commission's jurisdiction to make any order concerning the operation of the pumping plant in question, upon the ground that the defendants were not engaged in public utility service. In addition to this answer, the defendants also, without waiving the objection to jurisdiction, filed a formal petition which in effect asked

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that the Commission, in the event it should find them to be engaged in the operation of a public utility, to authorize an abandonment of such service. At the conclusion of the hearing, an adjournment was taken with the understanding that the matter would thereafter be submitted unless either of the parties requested further hearing on the question of abandonment. Briefs were filed by both sides but no request was made for further hearing and the matter was therefore deemed submitted and is now ready for a decision.

The evidence on rehearing confirms the conclusion reached by the Commission in its prior decision that the defendants are operating the property in question as a public utility. It appears that the pumping plant was installed in 1911, and has been used continuously ever since for the purpose of supplying water to purchasers of lots in a subdivision of land in the city of Anaheim known as the Hart Tract. In the year 1914, the service was extended to an adjoining subdivision known as the Mary Goodman Tract. The only interruptions of service down to the present time have been those occasioned by the necessity for making repairs.

Defendants further claimed that the dedication, if any, was only of the surplus water available after the irrigation of the defendants' orange orchard located on the five-acre tract on which the well is situated. The evidence shows, however, that these orange trees were planted six years prior to the date of the hearing, which would be subsequent to the time of the extension of service to the lot owners in the Mary Goodman Tract. We conclude, therefore, that the pumping plant and distribution system are dedicated primarily to public service, and that the defendants can not legally discontinue the public service, thus voluntarily undertaken, for the purpose of using the water themselves for irrigation.

Defendants also seek to abandon service. Their right to do so depends on whether or not the system is operated at a loss and can not be continued otherwise than at a loss. Defendants claim this is so, and support their claim by the following statement:

Estimated monthly revenue based on present service to sixty families at rates fixed by prior order herein of $1.50 per family		$90 00
Estimated monthly cost of operations:		
Labor, operating pump 15 days per month at $5.00 per day	$75 00	
Repairs	5 00	
Fuel and oil	7 00	
Clerical work and collections	10 00	
Supervision and management	10 00	
Depreciation and allowance	30 00	
		$137 00

These figures were given by Mr. Lawrie and were based on his past experience in operating the system. There was evidence, however, that the allowance made by him for the cost of operating the pump and for

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supervision and the collection of bills was in excess of the amount necessary to be expended for that purpose. Mr. Van Hoesen, one of the Commission's hydraulic engineers, basing his opinion upon knowledge of operating costs of other systems similar to this one, where the pumping plant is operated to serve both public and private use, stated that $50 per month was a reasonable allowance for this item. He further testified that a new pumping plant of a capacity sufficient to serve the consumers of the system operated by defendants could be installed at an approximate cost of $3,000 and operated at a monthly cost of $81.50, including depreciation allowance.

The evidence shows, however, that new capital can not be obtained to install a new plant or make any extensive repairs in the present one. Mr. Lawrie testified that he had no money of his own to invest for renewals or improvements and that he had been unable to borrow any money for the investment in this utility. Although an elderly man, he has felt obliged by his own personal efforts, to keep the system in operation and so far as possible do all the necessary repair work. It is apparent, therefore, that the further operations of this utility must depend upon the collection of sufficient revenue for water sold and the proper application of this revenue.

We are of the opinion that the following table represents a reasonable estimate of the monthly cost of operation, exclusive of depreciation allowance and taxes:

Fuel and oil	$7 00
Current repairs	5 00
Labor, operating pump and collecting charges	65 00
	$77 00

Upon this basis it is reasonable to assume that the narrow margin of $13 per month between operating cost and the estimated revenues based on the rates heretofore fixed is insufficient to provide for depreciation and fair return on the investment. Although no valuation of the system has been made, the original cost, according to Mr. Lawrie's testimony, was about $3,600. No depreciation allowance has been set aside in the past and no sinking fund accumulated from which repairs and replacements, now badly needed, can be provided. We are of the opinion therefore, that all revenue available above operating expenses should, for a temporary period at least, be used exclusively for making repairs and replacements essential to rehabilitate and maintain the service. In order to provide a sufficient sum for this purpose, an increased rate above that previously fixed will be authorized upon the condition that the entire amount realized from the sale of water, in excess of the total amount of $77 per month above indicated as allowance for operating expenses, be set aside for such repairs, replacements and maintenance work as may be approved by the Commission. As

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soon as it can be shown that the system has been rehabilitated to the point of rendering reasonable and adequate service, the excess above operating costs will be made available as a fair return to the owners of the property. This, however, will require a further or supplemental proceeding which must be instituted later.

It is very clear from the record in this proceeding that the successful operation of this system depends largely upon the cooperation of the consumers in the observance of proper rules and regulations. The evidence shows that the community served is a Mexican settlement adjoining the city limits of Anaheim. The fact that many of the consumers are unable to speak English has led to many misunderstandings in matters of charges and complaints concerning poor service. It further appears that connections have been made with distributing mains by consumers themselves, often without the knowledge or authorization of defendants, and that no means were provided for cutting off the service of consumers who were delinquent in the payment of charges. In the case of a small utility of this kind the consumers should be required to pay their bills at the residence or place of business of the person operating the system and every effort should be made by them to cooperate with the owners in eliminating unnecessary operating costs. No service connections should be made except by the owners of the system and in accordance with proper rules and regulations, and in every case a means should be provided whereby the individual service can be shut off in the event of nonpayment of bills.

It was suggested at the hearing that meters should be installed. It is evident from what has been said that this could only be done by requiring the consumers themselves to advance the cost of installation. If it appears upon the resumption of service under the terms of this decision that it is practical and desirable to have a metered system, a supplemental order will be made to that effect. At the present time, however, the Commission is of the opinion that service should be continued under the rates herein specified and in accordance with such rules and regulations as the Commission shall approve.

It is further apparent from the showing made at the last hearing that by reason of the failing strength of Mr. Lawrie and the financial straits in which this utility is placed, the continuance of service at best is precarious. We therefore recommend not only that the consumers and the utility cooperate in the continuance of this enterprise but that an effort be made to have the city of Anaheim take over the distribution system and serve the consumers of the defendants from the municipal water plant.

ORDER.

A rehearing having been held in this proceeding pursuant to an order made herein on the 27th day of February, 1922, additional testimony

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and documentary evidence having been received and the matter submitted, the Railroad Commission hereby finds that the defendants, W. S. B. Lawrie, Union Trust Company, Annie M. Lawrie and Sarrah Mildred Lawrie, are the persons owning or having an interest in and managing and operating a certain well and pumping plant located on lot 6 of the Hart subdivision in Orange County, California, and a distributing system in connection therewith for the service of water to certain persons comprising a portion of the general public in the vicinity of Anaheim; that the service rendered by said defendants in the operation of said system, as a public utility, has been and now is unreasonable, insufficient and inadequate; that said service can be made reasonable, sufficient and adequate by cleaning the storage tanks and making necessary repairs to the pumping plant and distributing system in accordance with conditions set forth in the order contained in this decision; that the reasonable rates to be charged and collected for service hereafter rendered under conditions similar to those which have existed and which now exists on said system are those set forth in the schedule contained in the order heretofore made in this proceeding on the 23d day of December, 1921, Decision No. 9926; that if and when the defendants shall comply with the conditions prescribed in the following order for the rehabilitation of the service, the reasonable rates to be charged for such service will be those set forth in Schedule No. 2 in the following order.

Basing its order on said findings and other findings and statements of fact contained in the decision preceding this order;

It is hereby ordered, that defendants, as the owners and operators of the water system herein referred to, be and they are hereby authorized and directed to file with this Commission and continue in effect the rates as prescribed in the prior order in this proceeding, made December 23, 1921, Decision No. 9926, and herein set forth in Schedule No. 1 as follows:

SCHEDULE No. 1.

Monthly Flat Rates.

For each dwelling or lodging-house of five rooms or less, including bath and toilet	$1 50
For each additional room	15
For each automobile	25
For each horse or cow	15
For each store or shop	1 00
For soda fountain or soft drink establishment	2 00
For barber shop with one chair	1 25
For each additional chair	25
For each public dining room	2 00
For each public bath tub	50
For each public lavatory	25
For each public toilet	25

The use of water for irrigation will not be permitted.

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Monthly Meter Rates.

From 0 to 500 cubic feet or less	$1 50
From 500 to 1000 cubic feet, per 100 cubic feet	25
All over 1000 cubic feet, per 100 cubic feet	15

Meters may be installed at the option of either the utility or the consumer. When installed at the option of the utility such installation shall be without cost to the consumer. When the installation is made at the consumer's request the cost of the meter shall be advanced by the consumer and the deposit shall be returned by the utility at the rate of twenty-five per cent of the monthly bills for water used until the entire amount advanced shall have been repaid.

Provided, however, that in lieu of the foregoing Schedule No. 1, the defendants may, at any time, upon compliance with the conditions hereinafter set forth, and after having first obtained the approval of the Commission by supplemental order herein, file and charge the following rates:

SCHEDULE No. 2.

Monthly Flat Rates.

For each dwelling or lodging-house of five rooms or less, including bath and toilet	$2 00
For each additional room	15
For each automobile	25
For each horse or cow	15
For each store or shop	1 00
For soda fountain or soft drink establishment	2 00
For barber shop with one chair	1 25
For each additional chair	25
For each public dining room	2 00
For each public bath tub	50
For each public lavatory	25
For each public toilet	25

The use of water for irrigation will not be permitted.

Monthly Meter Rates.

From 0 to 500 feet, or less	$2 00
From 500 to 1000 cubic feet, per 100 cubic feet	25
All over 1000 cubic feet, per 100 cubic feet	15

Meters may be installed at the option of either the utility or the consumer. When installed at the option of the utility such installation shall be without cost to the consumer. When the installation is made at the consumer's request the cost of the meter shall be advanced by the consumer and the deposit shall be returned by the utility at the rate of twenty-five per cent of the monthly bills for water used until the entire amount advanced shall have been repaid.

The rates set forth in the foregoing Schedule No. 2 shall be made effective only upon the following conditions. to wit:

1. Prior to the filing with the Commission of said Schedule No. 2, and the charging of rates in accordance therewith, there shall be filed with the Commission, and approved by it, a detailed statement of repairs, replacements and other work proposed to be done to rehabilitate the system and establish reasonable and adequate service; also a statement certifying that the storage tanks used in connection with the system have been thoroughly cleaned; also a stipulation signed by the defendants agreeing that the total amount received for water service by said system in excess of the sum of $77 per month, shall, unless otherwise

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directed by the Commission, be set aside and used solely for the purpose of making repairs, installations, replacements or improvements and the doing of such other work for the improvement and maintenance of said system as may be approved and ordered by the Commission. If the said statements and stipulation shall be filed and approved by the Commission a supplemental order will be made herein authorizing the rates proposed under Schedule No. 2 to become effective.

2. After the rates prescribed under Schedule No. 2 shall have become effective, quarterly reports shall be filed with the Commission by defendants stating the total amount of receipts and expenditures for the operation during preceding quarter and also expenditures made for repairs, improvements or replacements.

It is hereby further ordered, that the application of the defendants to discontinue service be and the same is hereby denied without prejudice to the rights of defendants to renew said application upon the further showing that the revenues to be received under the rates herein prescribed are insufficient to meet the reasonable operating costs of the system and to provide for reasonable replacements and improvements in accordance with the plans approved by the Commission.

Dated at San Francisco, California, this sixteenth day of September, 1922.

DECISION No. 10994.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A SPUR TRACK AT GRADE ACROSS SANTA FE AVENUE AND ACROSS THE TRACKS OF THE LOS ANGELES RAILWAY CORPORATION, IN THE CITY OF VERNON, COUNTY OF LOS ANGELES, CALIFORNIA.

Application No. 8013.

Decided September 18, 1922.

GRADE CROSSING.—Commission will not consider construction expenditures by industries as a factor in deciding location of spur tracks involving crossing at grade. Heavy traffic over highway at certain hours held to be justification for limiting switching over crossing at grade during such hours.

W. I. Gilbert, Evan J. Foulds, and *Frank Karr,* for Applicant.
S. M. Haskins, for the City of Vernon.
P. B. Harris, for the Los Angeles Railway Corporation.

BY THE COMMISSION.

OPINION.

In this application Southern Pacific Company asks for an order authorizing the construction of crossings at grade of a spur track across Santa Fe avenue and across the tracks of the Los Angeles Railway Corporation near East Vernon avenue in the city of Vernon, county of Los

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Angeles, State of California. Accompanying the application is a certified copy of a franchise from the city of Vernon granting applicant the right to construct the track in question.

The consent of the Los Angeles Railway Corporation not having been filed, a public hearing was held on August 31, 1922, in Los Angeles before Examiner Williams. At this hearing the Los Angeles Railway Corporation stated it did not object to granting the request of the applicant, provided it were put to no cost.

The record shows that crossings herein involved are located on a spur track designed to serve California Dressed Beef Company, having a packing plant at 3820 Santa Fe avenue. This plant received in ten months ending November 1, 1921, 1374 cars of cattle, hogs and sheep, of which 900, or 65.5 per cent, came in over the tracks of applicant. The record also shows that this industry desires service by the Southern Pacific because of a delay of from anywhere from two to three hours when the cars are brought into Los Angeles over the Southern Pacific, but delivered to the industry by the Santa Fe, at present the only railroad serving the industry, and that this delay is very important because the majority of livestock arriving at Los Angeles had already been on the cars from twenty-four to thirty hours and these extra two or three hours sometimes involve unloading and watering before the Santa Fe will undertake delivery.

The president of the beef company testified that approximately $250,000 had been expended upon a new plant—the old plant having burned about November 1, 1921—which is to be served by the track in question here and about $12,000 has been expended upon the track itself, without knowing that the matter had to come before the Railroad Commission and without knowing whether or not this application would be granted. The testimony of the applicant was, however, to the effect that the attorney of the industry was notified of the fact that it was necessary to come before this Commission in a grade crossing proceeding, so that in this case it appears as if the applicant had not been informed by his attorney that permission of a crossing at grade has to be received from this Commission.

We draw particular attention to this circumstance for in many applications filed with us our reports of inspection on the ground reveal the fact that a large amount of money is expended on buildings which are located to fit in with a particular location of the track in which there is a grade crossing of a public highway involved, and this expenditure is used as an argument toward granting the application. It would be better for the carriers to see that proposed industries fully understand the situation and refuse to do any construction work until the proper application has been filed and granted, and we wish to announce that expenditures so made will not be considered in connection with applica-

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tions asking for an order authorizing the construction of crossings at grade.

The city of Vernon is largely industrial, and especially so in the vicinity of the proposed crossing. It is recognized that spur track crossings are necessary in such districts, and occasionally the crossing of such an important highway as Santa Fe avenue is also necessary. It is our policy, however, in the industrial districts of Los Angeles and Vernon, to avoid these spur track crossings of the most important streets and we feel, if the service could be given in any other way, we would be justified in a denial of the right to cross. As to this particular crossing there is very heavy vehicular movement on Santa Fe avenue, Commission's Exhibit No. 1 indicating 6881 vehicles moving over the proposed crossing between 9 a.m. and 5 p.m.; in the last hour there being an average of twenty a minute. These figures are a result of a count made on July 17, 1922. There is no industry other than the beef company on the east side of Santa Fe avenue and the only cars switched across Santa Fe avenue will be those destined thereto. The industry stated that any limitation of hours of switching over the crossing would work a hardship because of the livestock shipments.

We believe, however, that the extremely heavy traffic on Santa Fe avenue between 4 and 5 p.m. warrants prohibition of switching during this hour.

It appears with this restriction as to switching the application should be granted.

ORDER.

Southern Pacific Company having applied to the Commission for an order authorizing the construction of a spur track at grade across Santa Fe avenue and across the tracks of Los Angeles Railway Corporation in the city of Vernon, county of Los Angeles, State of California, a public hearing having been held and the matter having been submitted;

It is hereby ordered, Southern Pacific Company be and it is hereby authorized to construct a spur track at grade across Santa Fe avenue and across the tracks of Los Angeles Railway Corporation in the city of Vernon, county of Los Angeles, described as follows:

Beginning at a point in the westerly line of Santa Fe avenue, said point being distant northerly 166.87 feet, measured along said westerly line from the westerly prolongation of the northerly line of Vernon avenue as now located east of Santa Fe avenue; thence northeasterly on a curved line concave to the northwest, and having a radius of 239.17 feet, a distance of 82.0 feet, more or less, to a point on the easterly line of said Santa Fe avenue, said point being distant northerly 180.65 feet, measured along said easterly line from the northerly line of Vernon avenue.

All of the above as shown by the map attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condi-

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tion for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to that portion of Santa Fe avenue now graded, with the rails of said spur track laid flush with the surface of said Santa Fe avenue at the center thereof; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall not transport any locomotives or cars over said crossings between the hours of 4 p.m. and 5 p.m.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission, if in its judgment the public convenience and necessity demand such action.

Dated at San Francisco, California, this eighteenth day of September, 1922.

DECISION No. 10996.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND DEPOSIT OF CERTAIN OF ITS BONDS AND THE USE OF THE PROCEEDS FROM THE SALE OF CERTAIN OTHER BONDS.

Application No. 8232.

Decided September 18, 1922.

Murray Bourne, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In this application, San Joaquin Light and Power Corporation asks permission to issue and pledge, with the trustee under its unifying and refunding mortgage, $57,000 of its first and refunding mortgage bonds, and to issue and sell a like amount of unifying and refunding mortgage bonds for the purpose of retiring underlying bonds.

The record shows that the company proposes, at this time, to retire $57,000 of outstanding bonds, consisting of $10,000 of San Joaquin Power Company's first mortgage 5 per cent bonds, due 1942, $30,000

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of Power Transit and Light Company's first mortgage 5 per cent bonds due 1933, and $17,000 of Bakersfield and Kern Electric Railway Company first mortgage 5 per cent bonds due 1931. Of these amounts, the application shows that petitioner holds in its treasury $2,000 of San Joaquin Power Company's bonds, $22,000 of Power Transit and Light Company's bonds and $16,000 of Bakersfield and Kern Electric Railway bonds.

W. E. Durfey, applicant's assistant secretary, testified that the company, if possible, intends to exchange unifying and refunding bonds for underlying bonds, and that any unifying and refunding bonds not so exchanged will be sold at 95½, and the proceeds used to finance the cost of paying such underlying bonds. In his opinion the proposed transaction will be of benefit to the company by reducing the amount of underlying liens and should be reflected in future sales of unifying and refunding bonds.

Applicant's unifying and refunding mortgage provides that uncertified first and refunding bonds of applicant shall from time to time be certified by the trustee under the first and refunding mortgage and deposited with the trustee under the unifying and refunding mortgage. Applicant now asks permission to pledge the $57,000 of first and refunding bonds.

I herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue $57,000 of its first and refunding bonds and to pledge them with the trustee under its unifying and refunding mortgage as security, in part, for bonds issued under said unifying and refunding mortgage.

It is hereby further ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue $57,000 of its Series "B" unifying and refunding mortgage bonds.

The authority herein granted is subject to the following conditions:

1. The unifying and refunding mortgage bonds herein authorized may be exchanged for the underlying bonds referred to in the fore-

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going opinion, or may be sold, at not less than 95½ per cent of face value, plus accrued interest, and the proceeds used to finance the cost of purchasing and paying for such underlying bonds.

2. Applicant shall keep such record of the issue, sale, pledge or exchange of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $57.

4. The authority herein granted shall apply only to such bonds as may be issued, sold, pledged or exchanged on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of September, 1922.

DECISION No. 10997.

IN THE MATTER OF THE APPLICATION OF THE BEAR VALLEY UTILITY COMPANY FOR AUTHORITY TO SELL TWO HUNDRED SHARES OF ITS CAPITAL STOCK, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ACQUIRING OF A LONG DISTANCE TELEPHONE LINE, RIGHTS OF WAY, NECESSARY LANDS AND OFFICES, AND THE CONSTRUCTION OF TELEPHONE LINES THROUGHOUT THE VICINITY KNOWN AS BIG BEAR VALLEY, CALIFORNIA.

Application No. 7495.

Decided September 18, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission having on June 22, 1922, issued its Decision No. 10606 in the above entitled proceeding, authorizing Bear Valley Utility Company, among other things, to issue and sell certain shares of its common capital stock, and it having been provided in said Decision No. 10606, that Bear Valley Utility Company shall not issue and sell any of its stock for the purpose of acquiring the telephone line known and designated as the Talmadge line, until it shall have been determined by the Commission the reasonable amount of stock which Bear Valley Utility Company may be permitted to issue and sell for said purpose and until the Commission shall have issued its supplemental order

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permitting such issue and sale; and it appearing to the Commission that Bear Valley Utility will, upon completion of the construction of its lines abandon a portion of the line in payment for which it desires authority to issue and sell its capital stock; and an inventory and appraisal of the usable portion of said line having been made by the Commission's engineers and it appearing to the Commission that the reasonable amount of stock which Bear Valley Utility Company may be permitted to issue and sell in payment for the usable portion of said line should not exceed the sum of $1,445;

It is hereby ordered, that Bear Valley Utility Company be and it is hereby authorized to issue and sell on or before December 31, 1922, at not less than 85 per cent of par value, 17 shares ($1,445) of its common capital stock, subject to the conditions following:

1. The proceeds from the sale of stock herein authorized to be issued and sold shall be used by Bear Valley Utility Company only for the purpose of purchasing and acquiring a private telephone line, extending between Big Bear Valley and the city of Highland and known and designated in the Commission's Decision No. 10606, as the Talmadge line, and not otherwise.

2. Bear Valley Utility Company shall keep such record of the issuance and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighteenth day of September, 1922.

DECISION No. 11000.

IN THE MATTER OF THE APPLICATION OF THE TULARE HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE TULARE HOME TELEPHONE AND TELEGRAPH COMPANY TO SELL TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY ALL OF ITS TELEPHONE PROPERTY IN AND ADJACENT TO TULARE, TULARE COUNTY, CALIFORNIA, AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE AND ACQUIRE THE SAME.

Application No. 7950.

Decided September 19, 1922.

Sanborn, Rochl and Smith, for Applicants.
E. G. Holland, City Attorney, for the City of Tulare, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding the Tulare Home Telephone and Telegraph Company, a corporation, owning and operating a telephone plant and system

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located in and serving the city of Tulare, Tulare County, and adjacent territory, is seeking an order of the Railroad Commission authorizing the sale and transfer of its said plant and system, for cash, to the Pacific Telephone and Telegraph Company, a corporation, for the sum of $82,000, plus the cost of additions made to the property between the period April 15, 1922, and such date as the property may be acquired, and the Pacific Telephone and Telegraph Company is seeking to purchase and acquire the same. Petitioner, the Tulare Home Telephone and Telegraph Company is also seeking authority to withdraw from the telephone business in the territory covered by said system. The property which it is proposed to sell and transfer is described in a proposed instrument of transfer, to be executed and delivered by the Tulare Home Telephone and Telegraph Company to the Pacific Telephone and Telegraph Company, which is attached to the petition as Exhibit "A."

A public hearing was held before Examiner Satterwhite in Tulare on August 24, 1922.

The city of Tulare, through its city attorney, has protested the proposed sale and transfer of this property on the alleged grounds that the Tulare Home Telephone and Telegraph Company has heretofore failed to pay to the city an amount claimed by the city to be due under certain franchises against the gross receipts of the company. Subsequent to the hearing of August 24 counsel for applicants has advised the Commission in its letter of September 12, 1922, that the claim of the city against the Tulare Home Telephone and Telegraph Company has been settled in full and has forwarded to the Commission a copy of a receipt signed by the city clerk, acknowledging payment in full of the city's claim.

The petitioner, the Tulare Home Telephone and Telegraph Company represents that the reason why it desires to sell and transfer its property to the Pacific Telephone and Telegraph Company and to retire from the telephone business is chiefly that requirements for additions and betterments to its system will, within a few years, be greater than its owners can successfully finance and that the Pacific Telephone and Telegraph Company, which is engaged in the general telephone and telegraph business throughout the State of California and elsewhere, will be better able through its larger organization, to finance these necessary extensions and betterments, thus assuring a continuance of efficient and adequate service to the patrons of the present company.

The Tulare Home Telephone and Telegraph Company has issued and outstanding $15,000 in bonds and $24,900 in capital stock. It also has outstanding two notes of $5,000 each, for cash borrowed locally to finance certain improvements. It has no other indebtedness other than current indebtedness. Its president has testified that the purchase of the property is to be by cash payment and that all present indebted-

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ness will be taken up by the present owners out of the proceeds of the sale.

An inventory and appraisal of the property proposed to be sold and transferred has been submitted to the Commission and has been checked by the Commission's engineers. We find that the proposed purchase price is not an unreasonable amount to be paid for the property.

No change is proposed by the purchasers in the rates at present in effect by the Tulare Home Telephone and Telegraph Company. This is not a case in which a consolidation of competing telephone systems is involved. On the other hand, it appears to be a case in which the present owners anticipate difficulty in the future in properly financing its business and in which the Pacific Telephone and Telegraph Company, if permitted to consummate the transfer, will be better able to finance the business and continue the public service. It is our opinion therefore that the public interest will be subserved by the sale and transfer herein proposed and that the application should be granted.

ORDER.

The Tulare Home Telephone and Telegraph Company and the Pacific Telephone and Telegraph Company having applied to the Railroad Commission for an order authorizing the Tulare Home Telephone and Telegraph Company to sell to the Pacific Telephone and Telegraph Company all of its telephone property in and adjacent to Tulare, Tulare County, California; authorizing the Pacific Telephone and Telegraph Company to purchase and acquire the same; authorizing the Tulare Home Telephone and Telegraph Company to withdraw from the telephone business in the territory served by its telephone system, and authorizing the Pacific Telephone and Telegraph Company to engage in the telephone and telegraph business in said territory; a public hearing having been held and the Commission being fully apprised;

It is hereby ordered, that the Tulare Home Telephone and Telegraph Company be and it is hereby authorized to sell and transfer to the Pacific Telephone and Telegraph Company, for cash, for the sum of $82,000, plus the cost of additions which may be made between April 15, 1922, and the date of purchase of the same, the property more specifically described in Exhibit "A," attached to and made a part of the application in this proceeding; and

It is hereby further ordered, that the Tulare Home Telephone and Telegraph Company be and it is hereby authorized and permitted to withdraw from the telephone business in the territory covered by the system herein authorized to be sold and transferred; and

It is hereby further ordered, that the Pacific Telephone and Telegraph Company be and it is hereby authorized to engage in the telephone and

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telegraph business in said territory; provided, that the applicants herein shall, within thirty (30) days of the date of the sale and transfer herein authorized to be made, file with the Railroad Commission a certified copy of the instrument of transfer, selling and transferring said property; and provided further, that the consideration named for the purchase and sale of said property shall not be taken before this Commission or other authority as representing the value of said property for rate fixing or other purposes.

Dated at San Francisco, California, this nineteenth day of September, 1922.

DECISION No. 11010.

IN THE MATTER OF THE APPLICATION OF T. T. LANGLOIS, SELLER, AND F. T. COOK, BUYER, FOR AUTHORITY TO SELL AND PURCHASE THE WATER PUMPING PLANT KNOWN AS THE WESTMORELAND WATER COMPANY.

Application No. 7759.

Decided September 21, 1922.

T. T. Langlois, in propria persona.
F. T. Cook, in propria persona.
J. W. Oakley, in propria persona.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Williams at Westmoreland and at Los Angeles upon the above entitled application for permission to transfer the water system and property of the Westmoreland Water Company, serving water for domestic and irrigation purposes in and in the vicinity of Westmoreland, Imperial County, California.

It developed at the hearing that H. C. Oakley and J. W. Oakley are the legal owners of the property. On December 31, 1920, Mr. Langlois entered into a contract sale agreement with the Oakleys to purchase the Westmoreland Water System. He was unable to meet the payments as they came due, and on April 5, 1921, assigned his right and title in the property to Frank T. Cook, for a consideration of $2,050. A short time later a fire destroyed the pump house and tank, necessitating the expenditure of a considerable amount of money for replacement, which Mr. Cook was unable to meet. The Oakleys advanced the money for reconstruction and by mutual agreement of all parties concerned, entered into a separate contract agreement with Mr. Cook for the purchase of the property for consideration of $8,200.

Mr. J. W. Oakley appeared on behalf of himself and H. C. Oakley and asked to intervene as the legal owner of the water system, and later filed a petition of intervention asking authority to sell and

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transfer the Westmoreland Water Company to F. T. Cook, a copy of said agreement being filed at the hearing as applicant's Exhibit No. 4. Mr. Langlois at the hearing renounced all ownership in the water system.

It appears that Mr. Cook intends to devote his entire time to the conduct of this water business.

No one appeared in opposition to the application and we believe that it should be granted.

ORDER.

A public hearing having been held on the above entitled application, the matter having been submitted, and now being ready for decision, and it appearing to this Commission that the authorization sought should be granted;

It is hereby ordered, that Frank T. Cook be and he is hereby authorized to purchase from T. T. Langlois, applicant, and H. C. Oakley and J. W. Oakley, intervenors, and said T. T. Langlois, H. C. Oakley and J. W. Oakley are hereby authorized to sell to said Frank T. Cook, that certain public utility water system known as the Westmoreland Water Company and consisting of all rights, real estate, wells, pumps, pipe lines, service connections and other facilities now being used in suplying water in Westmoreland, Imperial County, and described in detail in the inventory filed in this proceeding, subject to the following conditions:

1. Nothing herein contained shall be construed in any proceeding before this Commission or any other tribunal or public body as a finding of value of said property herein authorized to be transferred.

2. The within authority to transfer said property shall apply only to such transfer as shall have been made on or before December 31, 1922.

3. A certified copy of the instrument of conveyance shall be filed with the Commission by H. C. and J. W. Oakley within thirty (30) days of the date on which it is executed.

4. Within ten (10) days of the date on which possession and control of the property herein authorized to be transferred is actually relinquished to F. T. Cook, a certified statement to that effect shall be filed with the Commission by H. C. and J. W. Oakley and T. T. Langlois, or, in case said F. T. Cook is already in control and possession of the property, a certified statement to that effect shall be filed within ten (10) days of the date hereof.

Dated at San Francisco, California, this twenty-first day of September, 1922.

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DECISION NO. 11011.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR A PERMIT TO ISSUE ONE HUNDRED FIFTY THOUSAND DOLLARS OF ITS FIRST MORTGAGE TWENTY YEAR SIX PER CENT SINKING FUND GOLD BONDS.

Application No. 7498.

Decided September 21, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Central Counties Gas Company, pursuant to Decision No. 9054, dated June 4, 1921, as amended, in Application No. 6827, issued and sold $150,000 of 7 per cent debenture bonds under the terms of a debenture trust agreement which provides, among other things, that the company, as rapidly as it can do so under the provisions of its first mortgage, issue and pledge with the trustee under its debenture trust agreement, $150,000 of first mortgage bonds as collateral security for the $150,000 of debenture bonds; and

Whereas, the Railroad Commission, by Decision No. 10100, dated February 17, 1922, in the above entitled matter, authorized applicant to issue and pledge $150,000 of first mortgage bonds with the trustee under the debenture trust agreement or to exchange said $150,000 of first mortgage bonds for debenture bonds, as provided in said agreement; and

Whereas, the authority granted in said Decision No. 10100 was subject, among others, to the condition number 1, that $18,000 of the said $150,000 of first mortgage bonds might be pledged or exchanged only when and as authorized by the Railroad Commission in a supplemental order or orders upon the showing by applicant that it is entitled to their issue under and by the terms and provisions of its first mortgage; and

Whereas, applicant in a supplemental petition filed in the above entitled matter on September 20, 1922, reports and shows that its capital expenditures and its earnings now permit the issue of said $18,000 of first mortgage bonds; and

Whereas, applicant asks the Railroad Commission to make its supplemental order permitting it to pledge and exchange said $18,000 of bonds in the manner provided in its debenture trust agreement, and the Railroad Commission being of the opinion that applicant's request should be granted as herein provided;

It is hereby ordered, that the order in Decision No. 10100, dated February 17, 1922, be and it is hereby modified so as to permit Central Counties Gas Company to deposit the $18,000 of first mortgage bonds

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authorized to be issued by said decision and referred to in condition number 1 of said decision, with the trustee under that debenture trust agreement dated July 1, 1921, as collateral security for the $150,000 of debenture bonds issued pursuant to Decision No. 9054, dated June 4, 1921, as amended.

It is hereby further ordered, that the order in said Decision No. 10100 be and it is hereby further modified so as to permit Central Counties Gas Company to exchange said $18,000 of first mortgage bonds for a like amount of debenture bonds under the provisions of said trust agreement, upon the basis of 105, and accrued interest, for debenture bonds at par and accrued interest, applicant paying the premium of 5 per cent in cash.

It is hereby further ordered, that the order in Decision No. 10100, dated February 17, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-first day of September, 1922.

DECISION No. 11018.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF CERTAIN FRANCHISE RIGHTS AND THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A HIGH PRESSURE TRANSMISSION MAIN AND DISTRIBUTION SYSTEM IN THE TOWN OF MAYFIELD, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

Application No. 8194.

Decided September 26, 1922.

C. P. Cutten, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Pacific Gas and Electric Company asks the Railroad Commission to declare that public convenience and necessity require the exercise by applicant of the rights and privileges granted by Ordinance No. 129, passed July 10, 1922, by the board of trustees of the town of Mayfield, county of Santa Clara, State of California. A hearing was held on September 6th and the matter submitted.

A copy of this ordinance has been filed in this proceeding. In general, it grants to Pacific Gas and Electric Company, its successors and assigns, for a term of fifty (50) years, the right to lay and maintain gas pipes, mains and conduits in the highways, streets and alleys in the town of Mayfield and to use the same for the purpose of con-

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veying, distributing and supplying gas to the public, and particularly to the inhabitants of the town of Mayfield for light, heat, power and all lawful purposes, all rights being subject to the terms and conditions set forth in the ordinance.

Among other things, the ordinance requires that applicant, its successors and assigns, pay during the life of the franchise to the said town of Mayfield an amount equal to 2 per cent of the gross annual receipts arising from the use, operation or possession thereof, provided that no payments need be made during the first five (5) years succeeding the date on which the franchise was granted.

Evidence shows that no other utility is at present supplying gas in said town of Mayfield, that applicant has adequate facilities for so doing, and moreover that applicant desires and intends, if authorized by this Commission, to proceed at once to install the necessary transmission and distribution system to adequately render this service. Applicant reports the cost of securing this franchise at one hundred dollars ($100), and has filed a stipulation agreeing that neither it nor its successors and assigns will ever claim before the Railroad Commission of the State of California, or any court or other public body having jurisdiction, a value for this franchise in excess of one hundred dollars ($100).

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having asked the Railroad Commission to declare that public convenience and necessity require applicant, its successors and assigns, to exercise the rights and privileges granted to it by the town of Mayfield, county of Santa Clara, under Ordinance No. 129, passed on July 10, 1922, by the board of trustees of said town of Mayfield, public hearing having been held and it appearing to the Railroad Commission that public convenience and necessity require the exercise by applicant, its successors and assigns, of the rights and privileges referred to in said ordinance; therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require the exercise by Pacific Gas and Electric Company, its successors and assigns, of the rights and privileges conferred upon it by Ordinance No. 129, passed on July 10, 1922, by the board of trustees of the town of Mayfield.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

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DECISION No. 11020.

RAYMOND J. HEARNE

vs.

HANS P. SKOV.

Case No. 1735.

Decided September 26, 1922.

M. A. Fitzgerald, for Complainant.
Albert Nelson, for Defendant.

BY THE COMMISSION.

OPINION.

The facts in this case are simple. The defendant, Skov, has been operating an automobile truck line between San Luis Obispo and Pismo since some time prior to May 1, 1917. Pismo is a beach resort and, during the winter season when traffic is light, Skov makes three round trips weekly. During the summer season, he operates a daily schedule and is now using two trucks. Last December, desiring to spend the Christmas holidays with a relative in San Francisco, he went to Raymond Hearne, who operates Hearne's Auto Truck Line between San Luis Obispo, Pismo and Arroyo Grande, told Hearne of his plans, and asked the latter to look after his trucking business in his absence. This Hearne agreed to do and the defendant accordingly notified his patrons that for the next few days they should turn over to Hearne such freight as they desired to have hauled between San Luis Obispo and Pismo. He told Hearne the names of some of his customers and spent the holidays in San Francisco, as planned. During his brief absence, Hearne handled such freight as was tendered him by Skov's patrons. Hearne now brings this complaint, alleging that between December 27, 1921, and January 5, 1922, the defendant failed to operate his truck over the route and asks that, because of abandonment of service by Skov, his right to operate "be terminated and declared forfeited." The complaint further states that Hearne is himself able to take care of all business moving between these points.

There is no question but that Skov, through ignorance of the law, failed to perform his duties as a common carrier during this period and omitted several trips. He took such steps to protect his customers and his business as seemed to him proper and necessary, and apparently no one was inconvenienced by his absence. However good his intentions may have been and however slight may have been the inconvenience to any individual or individuals, his action was, nevertheless, in violation of the law. His plain duty, under the circumstances, was to have engaged some one to operate his truck for him upon the regular schedule.

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The record shows, however, that before leaving Pismo he took his truck to the local garage and instructed them to "go over it." The testimony indicates that Skov has in the past served his patrons regularly and efficiently, and, although ignorance of the law is no excuse, we feel that the temporary discontinuance of the service by Skov, under the circumstances herein set forth, does not warrant us at this time in depriving him of the right to operate as a common carrier over the public highway between San Luis Obispo and Pismo. Should he, however, at any time in the future again fail to render service according to his schedule, the matter may be brought to our attention for appropriate action.

The case will be dismissed.

ORDER.

A public hearing having been held upon the above entitled case, the matter being submitted, and now ready for decision;

It is hereby ordered, that the matter be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

DECISION No. 11024.

IN THE MATTER OF THE APPLICATION OF A. P. BALDWIN AND E. ROSALIE BALDWIN FOR APPROVAL OF TRANSFER OF SAID MONETA TRACT WATER COMPANY.

Application No. 8209.

Decided September 26, 1922.

R. M. Fulton, for A. P. Baldwin and E. Rosalie Baldwin.

BY THE COMMISSION.

OPINION.

In this proceeding F. W. Ridgway and Anna M. Ridgway ask authority to sell and A. P. Baldwin and E. Rosalie Baldwin ask permission to purchase a public utility water system, commonly known as the Moneta Tract Water Company, which supplies water to approximately 130 consumers located in Bowen's Main, Moneta and Figueroa Tract, in Los Angeles County.

A public hearing in this matter was held in Los Angeles before Examiner Williams. All interested parties were duly notified and given an opportunity to be present and to be heard.

It appears that this water system was transferred from the Ridgways to the Baldwins, the applicants herein, in 1918, and that all parties to the transaction were ignorant of the fact that the authority of this Commission was required in order to make the transfer valid.

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It further appears that the Baldwins have been in actual possession of and have operated the water system since July 5, 1918, and that this Commission's authority is now desired so that transfer may be made in accordance with the provisions of the Public Utilities Act.

After a careful consideration of all the evidence submitted at the hearing it is apparent that the best interests of consumers will be in no way affected by the proposed transfer and that authority therefor should be granted.

ORDER.

F. W. Ridgway and Anna M. Ridgway having made application for authority to transfer to A. P. Baldwin and E. Rosalie Baldwin a certain water system supplying consumers in Bowen's Main, Moneta and Figueroa Tract in Los Angeles County, and A. P. Baldwin and E. Rosalie Baldwin having joined in the application, a public hearing having been held thereon and the matter having been submitted;

It is hereby ordered, that the above entitled application be and the same is hereby granted upon the following conditions and not otherwise:

1. The consideration given for the transfer of this public utility water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply to the following public utility property:

> Lot 32 of Bowen's Main, Moneta and Figueroa Tract, Los Angeles County, California, as per map recorded in book 11 of maps, at page 85, in the office of the county recorder of Los Angeles County, together with the well, water tanks, pumps, and other appurtenances located thereon.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

DECISION No. 11028.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY, A CORPORATION, FOR AUTHORITY TO ESTABLISH MINIMUM RATES FOR SERVICE UNDER ITS SCHEDULES NUMBER SIX AND NUMBER SEVEN.

Application No. 8227.

Decided September 26, 1922.

BY THE COMMISSION.

ORDER.

Santa Maria Gas Company has filed with this Commission a formal application setting forth that it is in the business of selling natural gas for industrial purposes in the vicinity of San Luis Obispo and Santa

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Maria and intervening territory traversed by its pipe lines. It is further set forth that the sale of this gas is in direct competition with fuel oil, and because of recent reductions of oil prices it has been necessary to reduce the industrial gas rates under applicant's Schedules No. 6 and No. 7 in order to retain the business. Subsequent to the establishment of these schedules by Decision No. 9443, Opinions and Orders of the Railroad Commission, applicant on October 1, 1921, reduced the rates of the above schedules two cents per thousand cubic feet and with the approval of the Commission, modified Schedules No. 6 and No. 7 by inserting the provision that the rates should be subject to an increase or decrease on a basis of two cents per thousand cubic feet for each ten cents increase or decrease, respectively, in the price paid for oil f. o. b. Avila, California, on October 1, 1921.

On July 15, 1922, oil prices were again reduced 25 cents per barrel and applicant on July 24, 1922, further reduced its industrial rates by five cents per thousand cubic feet, making the present rates under Schedule No. 6 as follows:

First 100,000 cubic feet per meter per month----------28 cents per M cubic feet
All over 100,000 cubic feet per meter per month---------23 cents per M cubic feet

and the present rate under Schedule No. 7:

Rate per 1000 cubic feet----------24 cents

It is alleged that any further reductions of the above rates following a reduction of oil prices would result in the fixing of rates below the actual cost of the service to applicant. Wherefore, applicant requests the Commission for authority to establish as a part of said Schedule No. 6 the further provision that the rates specified therein shall never be less than 28 cents per 1000 cubic feet for the first 100,000 cubic feet per meter per month and 23 cents per 1000 cubic feet for all over 100,000 cubic feet per meter per month, and that the rate under Schedule No. 7 shall never be less than 24 cents per 1000 cubic feet. Investigation by this Commission shows that the natural gas involved in this proceeding has a quite definite fuel value in comparison with oil, wherein about 5000 cubic feet of gas are equal in heating value to one barrel of oil. The present provision for change of gas rate with change of price of oil is based upon this relative fuel value.

This Commission previously, by its Decision No. 9443, established rates of 35 cents and 30 cents per 1000 cubic feet, respectively, for Schedule No. 6, and 31 cents per 1000 cubic feet, for Schedule No. 7, based upon the cost of service. These rates were, however, reduced because of competitive conditions created by the low price of oil fuel. This present application requests the fixing of the now existing rates as minima, and limits any possible increase under the provisions of the schedule to the rates above shown, which were found to be just and reasonable by this Commission.

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Inasmuch as investigation shows that further reduction of applicant's Schedules No. 6 and No. 7 would result in the rendering of service at unreasonable and noncompensatory rates, and that by limiting these schedules to the present rates for minimum charges, and the rates fixed by Decision No. 9443 for maximum charges, no injury will result to applicant's consumers, it appears that a public hearing in the matter is unnecessary. From the showing made by applicant and the investigation by the Commission of the facts and circumstances involved, it appears, and the Commission hereby finds, that the proposed change of applicant's Schedules No. 6 and No. 7 is justified.

It is hereby ordered, that Santa Maria Gas Company be and hereby is granted authority to file and establish the following schedule of rates which supplant its previously filed Schedules No. 6 and No. 7, to wit:

(a) SCHEDULE No. 6.

(b) *Service.*

Industrial and boiler fuel service: Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers served under Schedules Nos. 1, 2, 3, 4 and 5; for use in steam boilers, incinerators, kilns, packing houses, creameries, laundries, metal working plants, canneries, etc., in which gas is not used to heat buildings or to prepare meals, and which are equipped to use other fuels, and can be converted to use other fuels on thirty minutes' notice. Consumers receiving service under this schedule are required to maintain adequate supplies of such other fuels.

(c) *Territory.*

Applicable to all districts served.

(d) *Rate.*

First 100,000 cubic feet per meter per month_____28 cents per M cubic feet
All over 100,000 cubic feet per meter per month_____23 cents per M cubic feet

The above rates are subject to increase or decrease on the basis of 2 cents per M cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price paid for oil f. o. b. Avila, California, on August 1, 1922, namely, $1.25 per barrel; provided, however, that in no case shall said rates exceed 35 cents or be less than 28 cents per thousand cubic feet for the first 100,000 cubic feet per meter per month, nor exceed 30 cents or be less than 23 cents per thousand cubic feet for all over 100,000 cubic feet per meter per month. Such increase or decrease, as the case may be, shall apply to all regular meter readings taken after the filing by Santa Maria Gas Company with the Railroad Commission of the State of California of an affidavit setting forth the new price paid for oil f. o. b. Avila, California, and upon the filing of such affidavit said company shall forthwith file with the said Commission a revision of this schedule showing the rates then in effect.

(e) *Minimum charge.*

$15 per meter per month.

(f) *Special conditions.*

Measurement based upon the unit of 1000 cubic feet of gas at four-ounce pressure above atmosphere. At times of gas shortage consumers of this class will be shut off in favor of consumers served under Nos. 1, 2, 3, 4 and 5. No obligation is undertaken to serve consumers of this class for any period of time.

(a) SCHEDULE No. 7.

(b) *Service.*

Special contract industrial rate for surplus gas: Applicable to service of gas for fuel to industrial consumers.

(c) *Territory.*

Applicable to the city of San Luis Obispo.

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(d) *Rate.*

Rate per thousand cubic feet.....24 cents

The above rate is subject to increase or decrease on the basis of 2 cents per M cubic feet for each 10-cent increase or decrease, respectively, in the cost of oil above or below the price paid for oil f. o b. Avila, California, on August 1, 1922, namely, $1.25 per barrel; provided, however, that in no case shall said rate exceed 31 cents nor be less than 24 cents per thousand cubic feet per meter per month. Such increase or decrease, as the case may be, shall apply to all regular meter readings taken after the filing by Santa Maria Gas Company with the Railroad Commission of the State of California of an affidavit setting forth the new price paid for oil f. o. b. Avila, California, and upon the filing of such affidavit said company shall forthwith file with said Commission a revision of this schedule showing the rate then in effect.

(e) *Minimum charge.*

$31 per meter per month.

(f) *Special conditions.*

(1) The gas supplied under this schedule is surplus gas only and service hereunder shall be furnished only under the form of contract entitled "Contract for Sale of Surplus Natural Gas" as set forth in the Rates, Rules and Regulations of Santa Maria Gas Company, of which this schedule and said contract are a part, and service hereunder is furnished subject to each and every term and condition of said form of contract.

(2) Service hereunder shall not be commenced unless and until said form of contract has been duly executed by the consumer and approved and accepted by the company.

(3) In addition to the special terms and conditions stated in said form of contract, service hereunder is subject to the rules and regulations of the company in so far as the same are not in conflict therewith.

(4) Measurement based upon the unit of 1000 cubic feet of gas at four-ounce pressure above atmosphere.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

DECISION No. 11031.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided September 26, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 10294 dated April 8, 1922, authorized San Joaquin Light and Power Corporation to issue and sell $3,500,000 of its Series "B" 6 per cent 30-year non-callable unifying and refunding mortgage bonds, subject to the condition, among others, that all proceeds obtained from the sale of such bonds should be deposited with a bank or banks, or with a trust company or trust companies, until such time as the Commission might by supplemental order indicate the purposes for which the proceeds might be expended; and

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Whereas, the Railroad Commission, by supplemental orders in the above entitled matter, has authorized applicant to use the proceeds from the sale of $1,923,646.61 of such Series "B" bonds to finance, in part, construction expenditures made prior to July 1, 1922; and

Whereas, applicant now reports that prior to September 1, 1922, it expended for necessary additions, extensions, improvements and betterments to its properties the sum of $226,070.63 which has not been provided for by the issue and sale of stock and bonds; and

Whereas, applicant asks permission to expend the proceeds from the sale of $226,070.63 of the bonds authorized by Decision No. 10294 to finance, in part, these reported expenditures, which are described in some detail in the statement of expenditures against estimates filed with the Commission on September 23, 1922;

And the Commission having given consideration to applicant's request and being of the opinion that it should be granted as herein provided;

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds obtained from the sale of $226,070.63 of the Series "B" bonds authorized by Decision No. 10294, dated April 8, 1922, to finance such part of the reported capital expenditures made prior to September 1, 1923, and referred to in this order, as is properly chargeable to capital accounts as defined by the Uniform Classification of Accounts prescribed or adopted by the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 10294, dated April 8, 1922, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

DECISION No. 11032.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY FOR AUTHORITY TO PURCHASE AND ACQUIRE ALL OF THE PROPERTY OF SANTA MARIA GAS AND POWER COMPANY, CERTAIN OF THE PROPERTIES OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION, TO INCREASE CERTAIN RATES NOW CHARGED FOR NATURAL GAS BY MIDLAND COUNTIES PUBLIC SERVICE CORPORATION, AND FOR PERMISSION TO ISSUE CERTAIN SECURITIES.

Application No. 5550.
Decided September 26, 1922.

BY THE COMMISSION.

EIGHTH SUPPLEMENTAL ORDER.

Good cause appearing:

It is hereby ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to use $10,387.09 received in part

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payment of the $82,000 6 per cent three-year note referred to in Decision No. 7708, dated June 9, 1920, and $2,850 received from the sale of Santa Maria Gas Company bonds, also referred to in said decision, to finance, in part, the cost of the additions and betterments described in Schedule "A" filed in this proceeding on September 25, 1922, which cost is reported at $53,175.40.

It is hereby further ordered, that the order in Decision No. 7708, dated June 9, 1920, shall remain in full force and effect, except as modified by this eighth supplemental order.

Dated at San Francisco, California, this twenty-sixth day of September, 1922.

DECISION No. 11033.

IN THE MATTER OF THE APPLICATION OF SUISUN AND GREEN VALLEY TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY AND PERMISSION TO RAISE THE TELEPHONE RENTALS AND CHARGES OF SAID CORPORATION.

Application No. 5547.

Decided September 28, 1922.

SERVICE—TELEPHONE UTILITY—COMPLAINTS.—It is suggested that the utility in the instant case designate a representative to whom subscribers or operators may report line or other trouble, and that a record be kept of all cases of trouble.

SERVICE—CLASSIFICATION OF ACCOUNTS.—Applicant is directed to adopt and be governed by the classification of accounts adopted by the Commission for Class C companies.

W. U. Goodman and *Joseph M. Raines,* for Applicant.

BY THE COMMISSION.

OPINION.

Suisun and Green Valley Telephone Company, applicant in this proceeding, owns a system of farmer telephone lines in the vicinity of Fairfield, Solano County, California. Service is provided by The Pacific Telephone and Telegraph Company from its Suisun exchange. Applicant is seeking an order authorizing an increase in rates, representing that its present rates are insufficient to meet expenses of operation and maintenance.

Public hearings were held in Suisun on July 22, 1920, and in Fairfield on September 6, 1922, before Examiner Westover. At the hearing held on July 22, 1920, it appeared that, before such increase in rates as may be found to be justified should be allowed, applicant should make certain improvements in its lines to enable it to render adequate and efficient service. To do this it became necessary to obtain the necessary funds by an issuance of securities. It later applied to and was granted authority by the Commission to issue and sell stock. The Commission, having since been advised that the necessary funds have been obtained

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and the improvements completed, a further hearing was held on September 6, 1922, and the matter is now ready for decision.

The rates at present in effect are $12 per year. For connection of applicant's lines with the exchange of The Pacific Telephone and Telegraph Company, at Suisun, applicant pays to the latter company out of its $12 rate a charge of $3 per year for each residence telephone and $6 per year for each business telephone of its subscribers. This leaves a net rate to applicant of $9 and $6 per year for residence and business stations, respectively. It is now proposing a rate of $24 per year out of which it will be required to pay to The Pacific Telephone and Telegraph Company its present rate of $3.60 and $7.20 per year.

An appraisal of applicant's property prepared prior to and submitted at the hearing of July 22, 1920, is superseded by a later appraisal made by the engineers of the Commission after the improvements previously referred to were completed. This appraisal is made as of April 1, 1922, and is accepted by applicant as representing a fair valuation of the property in service, as of that date. To this appraisal there is added items of plant, constructed subsequent to April 1, making the total valuation $20,457.

Without any increase in applicant's business during the next year, it is estimated by the Commission's engineers that gross receipts under present rates will amount approximately to $1,512. Since applicant does not operate the central exchange with which its lines connect, expenses of operation consist chiefly in the maintenance of its lines and telephones and in such expenses as may be incurred in accounting and collecting. Allowing for these items, and for taxes, it is estimated that the balance remaining for depreciation reserve and interest on investment, having deducted the service charges payable to The Pacific Telephone and Telegraph Company, will be approximately $600. This amount is insufficient to provide for depreciation and will leave nothing for interest on investment.

The rates proposed by applicant do not provide for a differential between business and residence service or between desk set equipment and wall sets. Neither is there provision for any class of service other than party line service, although applicant is now providing individual or one party line service in a few instances in which subscribers require this service. The proposed rates should be revised in order to provide proper rate differentials for these purposes. For the purpose of uniformity with the rates now in effect for similar service in other portions of the Suisun exchange service area, we suggest a rate of $2.75 per month for individual line business service, wall sets, and $2.25 per month for individual line residence service, wall sets, adding thereto the present standard mileage rate of 50 cents per month per quarter-mile or fraction thereof, measured in an air line from the nearest point

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in the primary rate area of the Suisun exchange for any subscriber of petitioner requiring individual line service, with an additional charge of 25 cents per month for desk sets. For ten party line service, the only other class of service now provided by applicant, we suggest a rate of $27 per year for business service, wall sets, and $24 per year for residence service, wall sets, with an additional charge of 25 cents per month for desk sets in each instance.

It is estimated by the Commission's engineers that the party line rates herein suggested will produce gross revenues amounting to approximately $3,060 per year, based on the present volume of business. During the five years 1917 to 1921 there has been practically no increase in the volume of business handled. This may be due, in part, to the inferior service heretofore maintained, but it does not appear even with the improved service which applicant is now prepared to provide that there will be any material increase in business. Estimated revenues therefore can only be based on the present volume. At the present time applicant does not maintain and renew the local batteries used in subscribers' telephones. To insure satisfactory service, it should do so. Allowing for this cost, it is estimated that the total operating expense will approximate $900 per year, exclusive of taxes, depreciation and allowance for uncollectible revenues. Taxes will amount to approximately $170. An allowance of 3.5 per cent for depreciation reserve, sinking fund method, appears to be a reasonable allowance in this case. This will amount to $716. Deducting one-half of 1 per cent of gross revenue for uncollectibles will leave a net revenue of approximately $1,770. This will be equivalent to a return of 8.6 per cent on a valuation of $20,457.

In the matter of service it appears that applicant has not heretofore promptly taken care of cases of trouble occurring in subscribers' lines. Its construction is now in good condition and delays in clearing trouble that may occur should not be serious. Applicant should, of course, provide efficient service at all times and we believe it will do so, but suggest the advisability of designating or appointing a representative to whom subscribers or operators of the Suisun exchange may report line or other trouble in order that they may be given prompt attention. We suggest also the advisability of keeping a complete record of all cases of trouble as reported, showing date, time and by whom reported; date, time and by whom cleared, and statement of trouble found.

In the estimate of operating expenses above referred to allowance has been included for bookkeeping and accounting. The amount of work of this character in this case will not be great but applicant should adopt for this purpose and be governed by the classification of accounts adopted by the Commission for Class "C" companies. It should also

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adopt and file with the Commission the following or similar rules and regulations in accordance with those approved by the Commission for other similar companies:

RULE 7.

The company may extend credit for toll or telegraph service to any subscriber under the following rules:

(a) If a subscriber avails himself of the convenience of toll or telegraph service and fails to pay the charges therefor the company may, after reasonable notice, deny the convenience of further toll or telegraph service until the subscriber pays the amount due and makes a deposit not in excess of twice his average monthly toll or telegraph bill to cover charges for future toll or telegraph service, except in the case of disputed bills.

(b) If a subscriber who has made a cash deposit fails to pay his bills for toll or telegraph service the deposit may be applied to the subscriber's account for toll or telegraph service in so far as it will apply. The subscriber will be required to pay his bill in full and may be required to restore the deposit to its original amount before further toll or telegraph service is supplied, except in the case of disputed bills.

(c) In case of dispute as to the amount of a bill for toll or telegraph service, the subscriber shall deposit with the Railroad Commission the full amount claimed by the company to be due, whereupon the Railroad Commission will investigate the facts and communicate its findings to the parties. Failure upon the part of the subscriber to make such deposit within fifteen (15) days after demand by the company that such deposit be made shall warrant the company in denying further toll or telegraph service.

RULE 8.

All bills for flat rate service may be rendered in advance for the periods specified in the rate schedule.

All applicants for business or residence flat rate service may be required upon the establishment of service to pay in advance the charge for the period for which bills are regularly rendered as specified in the rate schedule.

RULE 9.

All bills rendered against subscribers receiving service at flat rates may be rendered in advance and may contain a notice that bill is due and payable when received and that service is subject to discontinuance without further notice unless bill is paid within the period specified therein. The periods shall be specified as follows:

(a) Bills rendered weekly in advance shall specify at least four (4) calendar days after subscriber's receipt of bill.

(b) Bills rendered fortnightly in advance shall specify at least seven (7) calendar days after subscriber's receipt of bill.

(c) Bills rendered monthly in advance shall specify at least fifteen (15) calendar days after subscriber's receipt of bill.

(d) Bills rendered in advance for periods in excess of one month shall specify at least thirty (30) calendar days after subscriber's receipt of bill.

RULE 10.

Cash deposits made by subscribers shall be returned under the following rules:

(a) A cash deposit to guarantee payment of bills for toll or telegraph service that has not been impaired for a period of twelve (12) months from the date of deposit shall be returned to subscribers at the end of the twelve months period, or in the case of an impairment of a deposit, the deposit shall be returned to the subscriber only after it has remained unimpaired for a period of twelve months from the date of last impairment

(b) When service is discontinued deposits shall be applied to the charges on the closing bill, which deposits cover, and the amount of any deposit in excess of the charges against which the deposit may be applied shall be returned to the subscriber.

RULE 11.

A cash deposit that remains unimpaired for a continuous period of twelve (12) months subsequent to the date of the deposit or in cases of impairment from the date of last impairment shall bear interest at the rate of 6 per cent per annum for such

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twelve (12) months period. No interest shall be paid if service is discontinued within less than twelve (12) months from the date of making deposit or in cases of impairment of service within less than twelve (12) months from the date of last impairment.

RULE 12.

Applicants for service shall be required to sign an application furnished by the company, subject to approval by the Commission for the service to be furnished and to establish their credit in such cases as provided in these rules as a condition precedent to service.

RULE 13.

The company shall furnish at its own expense all instrumentalities to provide service covered by its rate schedules.

All instrumentalities provided shall conform with the company's established construction standards.

The company may refuse the installation of service that is not to be immediately used or is unreasonable in character, subject to appeal to the Railroad Commission of California.

RULE 14.

A charge for each of the following listed units of facilities shall be made upon application for the establishment of service:

(1) Individual or party line service, each station, $3.50.

(2) Each extension station, $1.50.

(3) A charge of $1.50 shall be made for the establishment of service by use of instrumentalities in place on subscriber's premises; if, at subscriber's request, a change is made in location or type of facilities, the charges for moves and changes are applicable to the change; provided, the total charges shall not exceed the charges for the initial establishment of service as specified above.

(4) The service connection charge shall be applicable to all service, except farmer line service.

(5) A charge of $1 for restoration of service temporarily disconnected for nonpayment, subscriber's temporary absence, or for any other reason for which the subscriber is responsible except a change in class of service or location of facilities.

RULE 15.

The company will provide at its own expense all reasonable extensions necessary to serve applicants in accordance with its lawful rates and in accordance with its established construction standards.

Any extension which in the company's judgment is unreasonable or should not be made at sole cost to the company may be refused, subject to appeal to the Railroad Commission of California, by an informal application or under Section 36 of the Public Utilities Act.

RULE 17.

Any extension which is not to be made at the company's sole cost shall be covered by a written agreement between the company and the applicant, defining the terms and conditions under which the extensions are to be constructed, subject to appeal to the Railroad Commission of California.

The improvements which applicant has made in its lines were completed during or about the month of February. It appears to have been providing since then improved service of the standard which the Commission indicated it should provide. It asks that such rates as the Commission may now authorize be made effective from the date to which bills have heretofore been paid by subscribers. This can not be legally done, as the law authorizes the collection of such rates only as are previously authorized and shown on schedules previously filed. We, therefore, authorize the new rates to be made effective on and after October 1, 1922.

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ORDER.

Suisun and Green Valley Telephone Company having filed its application with the Railroad Commission for an order authorizing it to increase its rates, public hearings having been held and the matter having been submitted:

The Railroad Commission hereby finds that the rates now charged and collected by Suisun and Green Valley Telephone Company are unjust and unreasonable and that the rates hereinafter authorized to be charged and collected by it are just and reasonable rates.

Basing its conclusions on the foregoing finding and on the other findings referred to in the opinion preceding this order;

It is hereby ordered, that Suisun and Green Valley Telephone Company be and it is hereby authorized to file with the Railroad Commission on or before October 1, 1922, and to make effective on and after October 1, 1922, the following rates, to wit:

	Business Service		Residence Service	
	Wall Set	Desk Set	Wall Set	Desk Set
1 party individual line, per month	$2 75	$3 00	$2 25	$2 50
10 party line, per year	27 00	30 00	24 00	27 00

Mileage charge for 1 party individual line, business or residence service, in addition to the rates hereinabove specified, 50 cents per month for each quarter-mile, airline, or fraction thereof, between subscriber's premises and the nearest point in the primary rate area of the Suisun exchange of The Pacific Telephone and Telegraph Company.

The rates herein authorized are subject to the conditions following:

1. Efficient and adequate telephone service shall at all times be provided and maintained for all subscribers.

2. The rates herein authorized and the service relating thereto shall be subject to and governed by the rules and regulations set forth in the preceding opinion, which rules and regulations shall be filed with the Railroad Commission on or before October 1, 1922.

Dated at San Francisco, California, this twenty-eighth day of September, 1922.

DECISION No. 11034.

PIEDRA ROCK COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION,
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
A CORPORATION.

Case No. 1645.

Decided September 28, 1922.

RATES—RAILROAD—COMPETITION.—The Commission announces that it has never permitted a carrier to restrict fair competition, but a carrier may properly retain traffic to its own rails when the rates under which the revenue is secured are not unreasonable, excessive or discriminatory.

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RATES—TWO-LINE HAUL.—The principle that a two-line haul involving a short distance is ordinarily entitled to a higher rate than a one-line haul for the same distance is declared to be firmly established.

RATES—DISCRIMINATION.—It is held that a comparison of the actual rates paid by complainant with rates of a competitor in another part of the state would theoretically pay for the same distance hauls, fails to prove discrimination.

Sanborn, Rochl and Smith and *James A. Keller*, for Complainant.
Frank B. Austin, for Southern Pacific Company.
G. H. Baker, for Grant Rock and Gravel Company, Intervenor.

BY THE COMMISSION.

PETITION FOR REHEARING.
REPORT OF THE COMMISSION UPON ORAL ARGUMENT.
OPINION.

At the request of the complainant this case was set for argument for the purpose of determining the merits of the petition for rehearing submitted by it, in which the Commission is requested to modify the findings and orders therein and the conclusions reached in Decision No. 10619, June 23, 1922.

The points relied upon by complainant in support of its petition will be considered separately:

I.

"That the findings and the order in said proceeding are erroneous and not supported by the evidence and are contrary to the evidence."

This allegation is so general in character that it needs no attention further than to state that in considering the other points involved the declaration is disposed of.

II.

"That the statement on page 5 of the opinion that

'The evidence was to the effect that the Santa Fe in order to allow the product of the quarry at Dwight to be given as large a circulation as possible and in order to keep the quarry operating at full capacity, made rates into Oakland in competition with rock reaching Oakland by water from a quarry at Richmond and from other quarries shipping into Oakland by barge,'

is erroneous, contrary to the evidence, and not supported by the evidence."

This exception is not well taken, for a witness on behalf of defendant made the following statement:

"Well, I know that the Santa Fe was anxious to place that Dwight rock, to give it as large circulation as they could in order to keep the quarry operating to full capacity, and that they made the rate into Oakland in competition with rock reaching Oakland by water from a quarry at Richmond and from other quarries that came into Oakland by barge; that when the interchange switching arrangement with the Southern Pacific was made the Hutchinson Company, who operated that quarry at Dwight, immediately begun to make prices and make bids on placing that Dwight rock, or Hutchinson rock, at points on the Southern Pacific in competition with the local rock coming from what was known as Leona quarry that Mr. Klein referred to here this morning on the California Railway, and with the quarries that were sending rock in there from Richmond by water." (Trans. p. 149.)

The testimony of this witness that the rock reaching Oakland by water carriers influenced the adjustment of the rate by rail from Dwight to

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Oakland was not substantially refuted either in cross examination or by further direct testimony.

III.

"That the statement appearing on page 5 of the opinion that

'The testimony also showed that the operation of getting the rock from the Dwight quarry into the Oakland yard, where it was turned over to the Southern Pacific, was practically a yard operation,'

is erroneous, unsupported by the evidence, and contrary to the evidence."

The testimony shows that the train crew performing the freight work on the Oakland branch of the Atchison, Topeka and Santa Fe moved to Oakland in the morning, handled the freight at that station and at the industry tracks under the direction of the Oakland agent, and at noon, or as soon thereafter as they reached the Oakland yard, would pick up empty cars and return to the quarry. The testimony further shows that this crew would, on occasions, make the round trip in a period of four hours and while the territory operated over is not entirely within yard limits and, therefore, necessitates running orders from the train dispatcher, the distinction as between this crew and a regular switching crew is not apparent. The work as performed, when we consider that the crew did the switching between Richmond and Oakland, including the quarry at Richmond and the industry tracks in Oakland, is practically a switching service, and our declaration to that effect is most positively sustained by the testimony.

IV.

"That the statement appearing on page 5 of said opinion that

'It will therefore be seen that the Dwight rates are on a low basis to meet water competition and the competition from quarries located in the city of Oakland, Leona Heights, on the San Francisco-Oakland Terminal Railways, and in these respects at least are not fairly comparable with the rates from either Piedra or Friant,'

is erroneous, unsupported by the evidence, and is contrary to the evidence."

V.

That the manner in which the rate from Dwight to Oakland was constructed has no bearing on this proceeding; also that the rates from Dwight to Livermore, San Ramon, Midway, Danville, Manteca and numerous other points on the line of the Southern Pacific were not given proper consideration.

These allegations, IV and V, may be treated together. Examination of the whole record shows a continual reference to the Dwight rates and most certainly the Dwight-Oakland rate, being the foundation of the Dwight joint rates to points on the Southern Pacific, is entitled to much attention. The answer made as to allegation II applies here to a greater or less extent.

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VI.

"That the statement appearing on page 6 of the opinion in this proceeding that
'The defendant, Southern Pacific Company, would be required to short-haul itself if compelled to equalize the rates from an off-line shipping point with rates from a shipping point local to its line,'
is erroneous, unsupported by the evidence, contrary to the evidence, etc."

The above quotation has no particular importance when considered in connection with the entire decision. This Commission has never permitted a carrier to restrict fair competition, but a carrier may properly retain traffic to its own rails when the rates under which the revenue is secured are not unreasonable, excessive or discriminatory.

VII.

"That the statement that
'Railroad commissions generally, as well as the Interstate Commerce Commission, have recognized the principle that a two-line haul is entitled to a proportionately higher rate than a one-line haul,'
disregards the evidence in this proceeding."

Our opinion quotes from six decisions of the Interstate Commerce Commission and one of this Commission.

The main contention in this proceeding, as developed by the exhibits and the testimony, is that the joint rates from Piedra, on the Santa Fe, to points on the Southern Pacific in the San Joaquin Valley are discriminatory to the extent that they exceed by 10 cents per ton the unpublished mileage scale of rates usually employed for a one-line haul between points both of which are located in northern-central California on the rails of the Southern Pacific.

It might here be stated that an identical mileage scale is published by the Western Pacific, their Tariff G. F. D. No. 36-F, C. R. C. 257, and this basis is generally used by carriers when commodity rates are made on rock between points in the northern-central part of the state.

The testimony shows that defendant has for years, with but few deviations, employed the one-line mileage scale, plus 20 cents per ton, when publishing rock rates for a two-line haul. The only territory where this basis is freely departed from is between Dwight, a point on the Santa Fe, and stations on the Southern Pacific. Distribution of rock from the Dwight quarry is limited to points around San Francisco Bay, Martinez, San Jose and Redwood City.

The record clearly shows that Dwight could not compete with the quarries located nearer the points of consumption in the San Joaquin Valley because of the lower freight rates from the latter points. It therefore follows that the rates published from Dwight, although on a lower mileage scale than from Piedra, can have no effect whatever over the tonnage moving out of the Piedra quarry to San Joaquin Valley destinations. The Dwight rates, the record shows, were arbitrarily

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established to meet a competitive situation and, originally, in the divisions of the earnings the Southern Pacific Company was given its full local mileage scale. These rates, therefore, are not fairly comparable with the rates from Piedra or from other points throughout the state.

With respect to the differential of 20 cents, we said in our original opinion:

"Furthermore, a two-line haul rate that is less than a combination of locals is obviously less remunerative to either participating company than a haul local to one line. The revenue must be divided and in all cases when such two-line haul revenue is split, one or the other or both of the lines must shrink their locals. So the question resolved itself into: What is a reasonable additional charge for a two-line haul as compared to a one-line haul? An analysis of the joint rates contained in the tariffs filed by the various carriers with the Railroad Commission shows that almost invariably the joint rates are higher on rock, sand and gravel than are the local rates for the same distances, but not so high as a combination of locals." (Page 8.)

"In reaching our conclusion we have taken into consideration that while the present joint rates of the carriers, defendants in this proceeding, are not on a uniform basis they are, however, to a marked degree based upon an arbitrary over a one-line haul rate. The evidence indicates that the existing joint rates compare favorably with like rates in other territories for comparative distances where traffic conditions are similar, and our conclusion is that the rates assailed are not unreasonable, unjust nor unduly prejudicial or discriminatory, and an order in harmony with that conclusion will be rendered." (Page 12.)

This allegation further recites that the differential of 20 cents per ton amounts to a terminal service charge of $10 per car at the interchange point. The opinion makes no reference to a terminal charge or a switching charge and the mere fact that a joint rate for a two-line haul is less than the combination of local rates but higher than an unpublished mileage scale for a one-line haul, is no indication that it carries with it a switching charge.

The declared principle that a two-line haul involving a short distance is ordinarily entitled to a higher rate than a one-line haul for the same distance is so firmly established that it needs no serious consideration. We find nothing in the petition or in the oral argument to here warrant any change in our conclusion.

VIII.

"That the statement of the Commission appearing on pages 8 and 9 of the opinion, concerning the joint rate from Dwight to Neroly, is not supported by the evidence."

The Assistant General Freight Agent of the Southern Pacific Company in his testimony (Trans. p. 88) referred to the manner in which the joint rates were published from Dwight, on the Santa Fe, to points on the Southern Pacific, and quoted as his authority this Commission's Form 63, No. 1389, dated March 29, 1917. The rates from Dwight to Neroly are specifically set forth in the 63 authorization mentioned and, therefore, that part of the decision dealing with the rate from Dwight to Neroly is not outside of the record, as all of the rates from Dwight to points on the Southern Pacific are covered by that authorization.

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It does not appear that the complainant has been denied any of its rights, and under the circumstances as outlined above, and the rates being in the same general territory, we see no impropriety in making use of the Dwight-Neroly rates contained in the document referred to by the witness, and which is a part of the official file of this Commission.

IX.

That the opinion erroneously considered the statement of rates shown in Southern Pacific Exhibit "B" on the grounds that the witness for defendant knew nothing of the circumstances or conditions surrounding the establishment of the rate.

In our opinion we said:

"The defendant, Southern Pacific Company, filed an exhibit (Defendant Southern Pacific Company's Exhibit B) showing rates on crushed rock from Piedra to points in California on the Southern Pacific lines, compared with two-line haul rates in other territories for the same distances, in part as follows:"

One of the most satisfactory tests of the reasonableness of rates is a comparison of the rates of other carriers operating in the same general territory under like conditions.

No reference is made to this exhibit in any other part of the opinion and consideration was and always is given to the fact that the value of such exhibits depends to a great extent upon the proof of the similarity of transportation conditions.

X.

This paragraph of complainant's petition for rehearing and modification of findings and order, states:

"That the statement appearing on page 10 of the opinion in this proceeding showing comparison of rates is erroneous and unlawful and in this behalf petitioner respectfully alleges that the rates therein quoted were not in evidence, and complainant had no opportunity to test, explain or refute the same."

There is no presumption of error arising from the fact that the Commission in its decision has seen fit to incorporate therein a table of rates applicable within the territory attacked by the complainant, inasmuch as it has not been shown, neither does it follow, that said table has been in any way a controlling factor in arriving at the conclusions and findings of the Commission in its decision.

In all matters brought before it the Commission makes every effort to obtain facts bearing upon the issue presented and from these facts endeavors to formulate a decision equitable to all parties. In view of this we feel the exception made is not well taken.

XI.

This paragraph of complainant's petition attacks the statement on page 10 of the Commission's decision, reading in part:

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"That complainant urges that the difference in freight rates has kept it out of important markets,"

It indicates an entire misapprehension of complainant's position in this proceeding. That complainant has simply urged that the imposition of unreasonable rates upon its products has the effect of depriving it of certain business, and that if those rates had been adjusted upon a basis admitted by defendants to be reasonable it would not have been deprived of said business.

The Commission would refer complainant to pages 8, 14, 15, 45 and 47 of the transcript, where great stress has been laid upon the inability of the complainant to dispose of its products in various markets, claiming it was unable to do business at certain points.

We would particularly refer complainant to page 15, and quote, in part:

"Our people were so discouraged that we were losing *all* this business that they finally wanted me to go over to Chicago to see Mr. Chambers * * *."

As hereinbefore stated, the complainant has failed to prove its contention that the joint rates of defendant carriers are unreasonable, and for these reasons the exception made by complainant is not well taken.

XII.

This paragraph of complainant's petition for rehearing and modification of findings and order attacks the statement appearing on page 11 of the opinion and order, reading as follows:

"No substantial evidence was offered assailing the volume of the local and joint rates and nothing appears upon this record to indicate that complainant is in any way prejudiced or suffers any disadvantage in its business by reason of the rates attacked."

and alleges that it did not assail any local rates whatsoever, and that the uncontroverted evidence shows that the joint rates are excessive in volume, and that complainant suffers prejudice and great disadvantage by reason thereof.

While the decision was broader than necessary for adjudication of this matter, yet recognition must be given to the fact that the issue is covered by the petition of intervention therein. We could eliminate the words "Local and" and it would not in any sense change the decision.

With reference to the last part of the paragraph, the Commission must reiterate that outside of the disability of complainant to compete in markets where it could not possibly get into without being given a preference over other quarries, complainant is not discriminated against in any degree.

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XIII.

Petitioner here alleges that the statement appearing on page 11 of the opinion to the effect that the complainant suffered a handicap by reason of its geographical location, is entirely unwarranted by any evidence introduced in this proceeding.

The paragraph referred to reads:

"No substantial evidence was offered assailing the volume of the local or joint rates and nothing appears upon this record to indicate that complainant is in any manner prejudiced or suffers any disadvantage in its business by reason of the rates attacked and if the complainant does suffer a handicap it is by virtue of its geographical location as related to its markets. This Commission has repeatedly held that it cannot equalize geographical locations or marketing conditions nor relieve commercial handicaps."

The conclusion here reached by the Commission is borne out by the record in the proceeding and we believe is entirely proper.

Manifestly, if the complainant were not located at a point requiring a two-line movement of its rock shipments, this complaint would never have been brought and the geographical location appears to have everything to do with the bringing of this proceeding.

This allegation also contends that the Commission's opinion practically resulted in an interchange charge at junction points. An answer to this allegation is covered by our answer to allegation No. VII, and will not be further dealt with.

XIV.

Complainant's petition for rehearing, in paragraph XIV states:

"Petitioner further alleges that the Commission disregarded entirely the evidence of complainant relating to rates from Piedra to points on the McKittrick branch of the Southern Pacific; that said evidence shows conclusively that said rates are made and constructed on an inconsistent basis and said opinion and order of the Commission does not in any way correct or modify the same."

Evidence submitted by the complainant dealing with rates from Piedra to points on the McKittrick Branch of the Southern Pacific Company has been thoroughly analyzed, and Decision No. 10619 of June 23, 1922, was issued after a very careful review of the entire rate situation.

At the present time, as shown by the table of rates below, applicable to the McKittrick Branch, from both Piedra and Friant, and taking into consideration the fact that the plant of the complainant is handicapped by its geographical location, it is on an equal basis to all points on that branch, with the exception of Lokern, McKittrick and Olig. Prior to July 1, 1922, the arbitrary in favor of Friant was 20 cents a ton when destined to McKittrick and Olig, and 10 cents per ton at Lokern. However, the 10 per cent reduction effective July 1, 1922, reduced the arbitrary at McKittrick and Olig to 10 cents per ton. To all other

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points on the McKittrick Branch both Piedra and Friant are on an equal basis, notwithstanding the fact that traffic from Piedra moves over two lines.

The following table shows conclusively that the plant at Piedra is not in any way discriminated against because of the fact that the rates for a single line haul are made upon the basis of the mileage scale, to which is added less than the 20 cents per ton arbitrary on traffic moving via the Atchison, Topeka and Santa Fe and the Southern Pacific Company:

FROM PIEDRA { Atchison, Topeka and Santa Fe, Southern Pacific Company

To	Period	Mileage	Rate per 100 lbs.	Mileage scale per 100 lbs.	Mileage scale, plus 20 cents per ton, 2-line haul, per 100 lbs.
Gosford	6/30/22	132	7 ¢	6 ¢	7 ¢
	7/ 1/22		6½	5½	6½
Buttonwillow	6/30/22	155.7	7	6½	7½
	7/ 1/22		6½	6	7
Lokern	6/30/22	159.9	7½	6½	7½
	7/ 1/22		7	6	7
McKittrick	6/30/22	170	8	7	8
	7/ 1/22		7	6½	7
Olig	6/30/22	172.1	8	7	8
	7/ 1/22		7	6½	7

FROM FRIANT (Southern Pacific Local)

To	Period	Mileage	Rate per 100 lbs.	Mileage scale per 100 lbs.	Arbitrary in favor of Friant, per ton
Gosford	6/30/22	141.9	7 ¢	6½¢	----------
	7/ 1/22		6½	6	----------
Buttonwillow	6/30/22	165.7	7	7	----------
	7/ 1/22		6½	6½	----------
Lokern	6/30/22	170	7	7	10¢
	7/ 1/22		6½	6½	10
McKittrick	6/30/22	180	7	7	20
	7/ 1/22		6½	6½	10
Olig	6/30/22	182.1	7	7½	20
	7/ 1/22		6½	7	10

In view of the foregoing the Commission feels that the findings contained in its Decision No. 10619 are sustained and should not be amended or modified.

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XV.

That many rates from Piedra to points in the San Joaquin Valley have been constructed on a combination of an unpublished mileage scale, and that the order of the Commission in this proceeding sanctions and authorizes rates higher than said mileage scale over junction points.

Petitioner fails to point out any joint rates from Piedra higher than a combination of the unpublished mileage scale. If any such rates are now in effect, adjustment will be made.

The question before us was the alleged unreasonableness and the discriminatory nature of the joint rates on crushed rock from Piedra, a point on the Santa Fe, to stations located on the Southern Pacific; and complainant relied strongly upon a comparison with the rates applying from Dwight.

The testimony, however, was to the effect that the Dwight rates were on a low basis to meet competitive conditions, had been published many years ago, and that the defendant had consistently declined to establish that basis of rates at other points on its line; also that during federal control and since efforts had been made to republish the rates to the basis of the 20 cents per ton arbitrary.

The testimony further shows that the quarry at Dwight, even at the low joint rates, was unable to market its products beyond San Francisco Bay points; therefore a comparison of the rates applying from Dwight to points in northern-central California with those applying from Piedra to points in the San Joaquin Valley, does not show the Piedra rates to be unreasonable, as the competition which was the factor in fixing the Dwight rate does not exist at Piedra. A comparison of the actual rates paid by this complainant with rates a competitor in another part of the state would theoretically pay for the same distance hauls, fails to prove discrimination.

It was not shown by any of the testimony or exhibits that, *per se*, the Piedra rates were unreasonable or discriminatory simply because a lower rate was in effect from Dwight.

Neither the oral argument, the case citations, nor the reconsideration of the whole record has convinced us that the former opinion and order should be either modified or set aside. The petition is denied.

ORDER.

Upon further consideration of the record in the above entitled proceeding and of complainant's oral argument for rehearing;

It is hereby ordered, that the said petition be and it is hereby denied.

Dated at San Francisco, California, this twenty-eighth day of September, 1922.

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DECISION No. 11035.

IN THE MATTER OF THE APPLICATION OF SANTA PAULA HOME TELEPHONE COMPANY FOR AN ORDER INCREASING ITS RATES.

Application No. 6349.

Decided September 29, 1922.

Max Thelen, for Applicant.
Arthur H. Blanchard and *H. Clyde Harms*, for Santa Paula Chamber of Commerce and its Committee on Public Utilities.

BY THE COMMISSION.

OPINION.

Santa Paula Home Telephone Company, petitioner in this proceeding, owns and operates a telephone system serving the city of Santa Paula and contiguous territory. On January 25, 1916, this Commission issued its Decision No. 3061, in Application No. 1655, authorizing Santa Paula Home Telephone Company to purchase from The Pacific Telephone and Telegraph Company and consolidate with its own system the local plant and system of the latter company in Santa Paula and vicinity. By the terms of Decision No. 3061 the Santa Paula Company was permitted to apply its then existing rates to all subscribers of the consolidated systems, with certain modifications, which rates were continued in effect until May 1, 1919, at which time the present rates were made effective by an order of the Postmaster General of the United States authorizing the same. The present rates are as follows:

	Business Service		Residence Service	
	Wall Set	Desk Set	Wall Set	Desk Set
1 party line	$3 50	$3 75	$2 50	$2 75
2 party line	3 00	3 25	2 00	2 25
4 party line	----	----	1 50	1 75
10 party suburban line	2 50	2 75	2 50	2 75
Extension sets	1 00	1 25	0 50	0 75

In its application petitioner sets forth that operating expenses have increased to such extent since the consolidation was effected and since the increased rates authorized by the Postmaster General were made effective on May 1, 1919, that the net income has not for some time been sufficient, after making an adequate reserve for depreciation, to meet fixed charges and provide a reasonable return on its plant, system and equipment. It sets forth further that the increased operating expense consists chiefly in the wages paid its operators and other employees. The rates which petitioner desires to make effective are as follows:

	Business Service		Residence Service	
	Wall Set	Desk Set	Wall Set	Desk Set
1 party line	$4 25	$4 50	$2 75	$3 00
2 party line	3 75	4 00	2 25	2 50
4 party line	----	----	2 00	2 25
10 party suburban line	3 00	3 25	3 00	3 25
Extension sets	1 00	1 25	0 75	1 00

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A public hearing in this matter was held in Santa Paula on June 14, 1922, before Examiner Satterwhite and submitted upon condition that if counsel for the Chamber of Commerce may desire an opportunity for cross examination after examination of various exhibits presented on June 14, a further hearing would be held on July 14. It having since been indicated that further hearing is not desired the matter is now ready for decision.

At the hearing petitioner presented various exhibits covering its property appraisal, its revenue and expense accounts, estimated revenue and expense statements and related matters. There were also presented by the Commission's engineers an appraisal report and estimates of revenues and expenses under the present and proposed rate structures.

In the appraisal presented by petitioner the value of the property as of June 30, 1921, is represented to be $76,731.61. Net additions down to April 30, 1922, and the average net additions for the remainder of the year 1922, bring the total appraised value of the property claimed by the company to $79,026.17. The appraisal of the Commission's engineers covering the same period is $66,806. This amount is determined by deducting from their appraisal as of June 30, 1921, $64,390, the appraised value of nonoperative and duplicate property, $584, and adding to the sum thus determined, $1,000 for actual net additions to December 31, 1921, taken from the company's records, plus estimated average net additions for the year ending December 31, 1922. Each of these appraisals is based on what this Commission terms the historical reproduction method. As between the two appraisals it will be seen there is a difference of approximately $12,200. This difference is due, in part, to differences in inventory quantities appearing in the respective appraisals but chiefly to differences in unit costs of labor applied by the engineers of the Commission and the company's engineers. As to differences in inventory quantities, a recheck which has been made subsequent to the hearing indicates that such adjustment as may properly be made to reconcile them would not materially alter the appraisal. As to labor costs it is our opinion that the amounts allowed by the Commission's engineers are reasonable and that the total valuation found is a fair valuation for the purposes of this proceeding.

Petitioner has presented an income statement, taken from its books, for the five years 1917 to 1921, inclusive. This statement shows net earnings of approximately $2,500 and $250 respectively, for 1917 and 1918, and gross receipts approximately equal to gross expenses for 1920. For 1919 and 1921 net operating losses of approximately $4,700 and $1,650 are shown. So far as this showing of net operating losses is concerned it appears that the amounts set aside on the company's

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books for depreciation reserve in 1919, 1920, and 1921 are excessive and that net earnings would be shown if operating expenses were not charged with these excessive amounts. Petitioner has also presented estimates of revenues and expenses for the year 1922 under present and proposed rates showing net operating income of $1,932 under present rates and $5,277 under proposed rates. These amounts would represent net earnings of 2.45 per cent and 6.68 per cent respectively, on the company's appraisal. An examination of the company's records and a careful analysis of its revenue and expense accounts has been made by the Commission's engineers and estimates of revenues and expenses for the year 1922 have been prepared and submitted. These estimates show that in 1922 petitioner's net income, under present rates, would probably be sufficient to earn approximately 3.8 per cent on the value of the property shown in their appraisal, as compared with 2.45 per cent shown in petitioner's statement, and that under the rates proposed by the company the net income would probably be sufficient to earn approximately 9.3 per cent on this valuation, as compared with 6.68 per cent shown in petitioner's statement. While it thus appears that petitioner is entitled to higher rates than those now in effect it also appears that the proposed rates should be modified. We suggest the following schedule:

	Business Service		Residence Service	
	Wall Set	Desk Set	Wall Set	Desk Set
1 party line, per month	$4 25	$4 50	$2 75	$3 00
2 party line, per month	3 75	4 00	2 25	2 50
4 party line, per month	----	----	1 75	2 00
Suburban 10 party line, per month	3 00	3 25	2 75	3 00
Extension telephones	1 00	1 00	1 00	1 00

It is estimated that these suggested rates will produce gross revenues, inclusive of toll service and miscellaneous revenues, amounting to approximately $31,450 which, after deducting operating expenses, depreciation reserve, taxes and miscellaneous revenue deductions, will leave a net income of approximately $5,400. This will represent a net return of approximately 8.1 per cent on a valuation of $66,800.

In the matter of service, petitioner during the year 1921, completed certain improvements in its system by which its four party lines were converted from biased to harmonic ringing and its suburban lines were changed from magneto to common battery operation with full selective ringing. These changes have brought about improvement in the service. As to its business management, however, complaint is made that prompt and proper attention is lacking in matters of interest to subscribers which frequently arise, due to the fact that the entire time of the company's manager is not given to the Santa Paula exchange. His time is now divided between this exchange and the exchange of another telephone company in Oxnard of which he is also the manager. If, under

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petitioner's present plan of management, it were shown that the service is inefficient the Commission may require such change to be made as may be found to be necessary to provide efficient service. Such showing, however, has not been made. The employment of a manager who would give his entire time to Santa Paula would involve an additional operating expense for which an allowance has not been included in the estimates of the Commission's engineers. It is our opinion, in the absence of sufficient showing that the public interest requires the employment referred to, that only such rates as present operating conditions require should now be authorized. Should it later appear, however, that the service requires such employment and if in order to meet the expense thus involved a further change in rates should be made petitioner may then present the matter for the further consideration of the Commission.

Regarding the rates proposed by petitioner: In addition to the rates appearing in the preceding as the proposed rates, authority is asked to file certain supplemental rate schedules covering intercommunicating, joint user service and mileage rates. The rates set forth in these supplemental schedules and shown in applicant's Exhibit No. 9, are the same as the present standard rates for the same service generally in effect in this state and we see no objection to their adoption in this case. To make the rates therein provided for effective it will be necessary to establish a primary rate area beyond which the mileage rates may be made to apply. In the consideration of this matter counsel for the Chamber of Commerce and its Public Utilities Committee asked that there be included within the primary rate area a certain section of the city which is not included in petitioner's proposal. It appears that the section here referred to is being built up with homes and should be included. Petitioner has agreed to include it. We are willing to authorize the filing of these supplemental schedules subject to the filing of a map by petitioner defining the primary rate area for the Commission's approval.

ORDER.

Application having been filed with the Railroad Commission by Santa Paula Home Telephone Company for an order increasing its rates, a public hearing having been held, and the matter having been submitted:

The Railroad Commission hereby finds that the present rates of Santa Paula Home Telephone Company are unjust and unreasonable and that the rates hereinafter authorized are just and reasonable rates.

Basing its conclusions on the foregoing finding and on the other findings of fact referred to in the opinion preceding this order;

It is hereby ordered, that Santa Paula Home Telephone Company be and it is hereby authorized to file with the Railroad Commission within thirty (30) days of the date of this order and to make effective on and after October 1, 1922, the following schedules of rates, provided that all

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present rates not specifically provided for in said schedules shall be continued in effect until or unless changed by further order of this Commission:

	Business Service		Residence Service	
Party line, unlimited service.	Wall Set	Desk Set	Wall Set	Desk Set
1 party line, per month	$4 25	$4 50	$2 75	$3 00
2 party line, per month	3 75	4 00	2 25	2 50
4 party line, per month	----	----	1 75	2 00
Suburban 10 party line, per month	3 00	3 25	2 75	3 00
Extension telephones, per month	1 00	1 00	1 00	1 00

Business unlimited—intercomunicating service.

Receiving station, wall or desk set, with switching device—

10 line switching device, per month	$2 00
20 line switching device, per month	2 25
30 line switching device, per month	2 50

Each station, wall or desk set, with switching device, in premises in which receiving station is located—

10 line switching device, per month	$1 25
20 line switching device, per month	1 50
30 line switching device, per month	1 75

Each station, wall or desk set, with switching device, outside premises in which receiving station is located, but not exceeding 300 feet from receiving station—

10 line switching device, per month	$2 00
20 line switching device, per month	2 25
30 line switching device, per month	2 50

First both-way trunk line, individual business rate, plus $2 per month.

Each additional both-way trunk line, rate for first both-way trunk line, less 25 per cent.

Each incoming trunk line, individual business rate, less 20 per cent.

Secrecy switch, per station, per month, $0.25.

Minimum installation: Two (2) trunk lines and four (4) stations, including receiving station.

Rates are effective within primary rate area.

For service outside primary rate area, see mileage rates.

Joint user service.

Joint user, business unlimited service, per month, $1.50.

Mileage rates.

Individual lines, party lines and trunk lines.

For service outside the primary rate area, the following rates shall be effective for each one-quarter (¼) mile, or fraction thereof, measured air line, from the nearest point in primary rate area to subscriber's premises, in addition to the foregoing rates—

Individual (1 party) line, including trunk lines and power circuits for private branch exchange and intercommunicating systems per line, per month	$0 50
Two (2) party line, per station, per month	35
Four (4) party line, per station, per month	25

Business extension stations and private branch exchange and intercommunicating stations, outside premises in which primary station or private branch exchange switchboard or receiving station is located, for actual mileage of circuit involved, each one-quarter (¼) mile or fraction thereof, per month, $0.50.

Residence extension stations, outside building in which primary station is located but on same premises and at a distance not exceeding 300 feet from primary station, per month, $0.50.

The authority herein granted is subject to the condition that efficient and adequate telephone service shall at all times be provided to all subscribers and patrons of Santa Paula Home Telephone Company.

Dated at San Francisco, California, this twenty-ninth day of September, 1922.

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DECISION No. 11036.

IN THE MATTER OF THE APPLICATION OF MOUNT SHASTA POWER CORPORATION AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE MOUNT SHASTA POWER CORPORATION TO CONVEY CERTAIN LANDS AND OTHER PROPERTY TO RED RIVER LUMBER COMPANY, TO ACCEPT FROM SAID RED RIVER LUMBER COMPANY A LEASE OF CERTAIN LANDS AND OTHER PROPERTY AND TO SUPPLY ELECTRIC POWER TO SAID RED RIVER LUMBER COMPANY AS RENT FOR THE LEASED PROPERTY, ALL PURSUANT TO CERTAIN AGREEMENTS DATED AUGUST 27, 1920.

Application No. 6444.

Decided September 29, 1922.

C. P. Cutten and *Wm. B. Bosley*, for Pacific Gas and Electric Company and Mount Shasta Power Corporation.
A. E. Bolton, for Red River Lumber Company.

BY THE COMMISSION.

OPINION.

Mount Shasta Power Corporation and Pacific Gas and Electric Company ask that the Commission approve certain agreements between them and Red River Lumber Company, hereinafter referred to as the Lumber Company, covering the conveyance and leasing of certain lands and other property and rights. It appears from the evidence that many years ago those now identified with the Lumber Company, purchased large tracts of timber lands in the Pit River Basin and foreseeing the need of power for the development of their holdings secured riparian lands along the Pit River. Mount Shasta Power Corporation has since secured other riparian lands and rights along Pit River and its tributaries, Hat Creek and Fall River. The purpose of the present agreement is to so exchange these lands and rights that Mount Shasta Power Corporation may be in a position to proceed with its proposed developments on Fall and Pit rivers and Red River Lumber Company may retain or acquire lands and rights necessary to the development of power sufficient for its anticipated lumbering operations. Provision is also made for temporary use by Mount Shasta Power Corporation of the lands and rights permanantly conveyed to the Lumber Company until such time as the Lumber Company finds that its demands for power justify the operation of its own separate plants.

These ends are attained through a number of long and complicated deeds, agreements and leases, but the substance of the whole transaction is as follows: Mount Shasta Power Corporation transfers to the Red River Lumber Company certain lands and rights along Hat Creek, together with two power plants of a total installed capacity of 25,000 kilovolt amperes and receives in return the right to survey at any time during the next five years any lands now owned or hereafter acquired by the Lumber Company and to choose any lands or rights reasonably neces-

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sary to the construction and operation of the power plants and transmission lines which it proposes to build. The Lumber Company further agrees to lease the two power plants upon Hat Creek to Mount Shasta Power Corporation until August 31, 1923, and thereafter until the expiration of six months' written notice, and to accept as rental under this lease certain specified amounts of electric power, not exceeding a maximum of 9500 horsepower. Upon the termination of the lease the Lumber Company is to pay Mount Shasta Power Corporation the actual cost of acquiring certain lands in connection with the Hat Creek plants and in addition must pay to Mount Shasta Power Corporation the reasonable value at that time of the Hat Creek plants, less $500,000. Pacific Gas and Electric Company appears in the transaction as a guarantor of the faithful performance of all the obligations assumed by its subsidiary, Mount Shasta Power Corporation.

The entire agreement has been carefully analyzed and its probable future effect upon the cost of operation of the Pacific Gas and Electric Company studied. It does not seem likely that the power demands of Red River Lumber Company will exceed 9500 horsepower for some time to come and the probable effect of the agreement is that in exchange for this amount of power Mount Shasta Power Corporation will receive extensive rights essential to the development of over 450,000 horsepower. Should Red River Lumber Company elect to terminate the lease, however, the rights of both parties are protected and the continuance of the development and of the operation of the Pit River plants will not be interfered with.

The agreement involves an exchange of values, the determination of which will come up in connection with the question of rates, rather than at this time. It should be further pointed out that the parties to the agreement have recognized the jurisdiction of this Commission, or other branches of the state government, over the lease and have made provision for settlement in case the approval of such bodies to the lease should be withdrawn. In approving the execution of the conveyance and lease by Mount Shasta Power Corporation and Pacific Gas and Electric Company the Commission expressly reserves the right to make such further orders in the matter as may appear reasonable and necessary in the light of future conditions.

ORDER.

Mount Shasta Power Corporation and Pacific Gas and Electric Company having applied for an order of the Railroad Commission authorizing Mount Shasta Power Corporation to convey certain lands and other property to Red River Lumber Company and to accept from Red River Lumber Company a lease of certain lands and other property and to supply electric power to Red River Lumber Company as rent of the leased property, all pursuant to certain agreements dated August 27,

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1920, as amended by certain supplemental agreements filed with the Railroad Commission in this proceeding and the Railroad Commission being of the opinion that the proposed conveying and the leasing of such property will be in the public interest;

It is hereby ordered, that

(1) Mount Shasta Power Corporation be and the same is hereby authorized to convey and transfer to Red River Lumber Company under conditions substantially as set forth in a form of conveyance attached to the first supplemental application in this matter and marked Exhibit "A," all the lands, easements, water rights and other property particularly described therein.

(2) Mount Shasta Power Corporation be and the same is hereby authorized to execute and accept from Red River Lumber Company a lease of certain lands and other property substantially in the form attached to the first supplemental application in this matter and marked Exhibit "C."

(3) Mount Shasta Power Corporation be and the same is hereby authorized to use the properties hereby authorized to be leased by it from Red River Lumber Company in the public service as long as said lease shall continue in force and effect.

(4) Pacific Gas and Electric Company be and it is hereby authorized to enter into said agreements as therein provided as a guarantor of the faithful performance of the obligations therein assumed by Mount Shasta Power Corporation.

Provided, however, that nothing in the approval herein given shall be construed as a finding by this Commission as to the value of any of the property transferred or leased or of the property given or received in exchange therefor, and further provided, that the Commission expressly reserves the right to make such further orders in the premises as it may at any time deem proper.

Dated at San Francisco, California, this twenty-ninth day of September, 1922.

DECISION No. 11037.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 8271.

Decided September 29, 1922.

A. E. Peat, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

In this proceeding Southern California Gas Company asks permission to issue and pledge with Union Bank and Trust Company of Los

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Angeles, trustee, under its first and refunding mortgage, $2,000,000 of its first mortgage bonds, and to issue and sell a like amount of its first and refunding mortgage 5½ per cent thirty-year Series "B" gold bonds.

By Decision No. 9019, dated May 28, 1921, the Railroad Commission authorized applicant to execute a mortgage or deed of trust securing a total authorized issue of $25,000,000 of first and refunding mortgage bonds. This mortgage, among other things, provides that the uncertified first mortgage bonds of the company shall, from time to time, be certified by the trustee under the first mortgage and deposited with the trustee under the first and refunding mortgage. Heretofore, the Commission, in various proceedings before it, has authorized the issue and deposit of $2,865,000 of such first mortgage bonds as security, in part, for a like amount of first and refunding bonds. The company now asks permission to issue and pledge an additional $2,000,000 of first mortgage bonds in accordance with the provisions of the new mortgage. It appears that at this time there remain uncertified $2,569,000 of first mortgage bonds.

Applicant also asks permission to issue and sell, at not less than 95.65 per cent of face value, $2,000,000 of first and refunding bonds for the purpose of financing the cost of constructing extensions, additions and betterments to its properties. Under the first and refunding mortgage, applicant is entitled to issue bonds up to 75 per cent of the cost of new construction, provided that the net earnings of the company for twelve months out of the preceding fourteen months shall have been at least one and three-fourths times the interest on all bonds then outstanding and on the bonds which the trustee is asked to authenticate.

The testimony of A. E. Peat, applicant's comptroller, shows that prior to July 31, 1922, the company expended for capital purposes the sum of $1,407,355.47 for which it has not been reimbursed by the issue of bonds. Seventy-five per cent of $1,407,355.47 amounts to approximately $1,055,516.60, which is the amount of bonds applicant now asks permission to issue against its construction expenditures made prior to July 31, 1922. The remainder of the $2,000,000 of bonds herein applied for, namely, $944,483.40, will be sold to finance the cost of additions and betterments to be made subsequent to July 31, 1922. Applicant proposes to place the proceeds from the sale of such bonds in a special deposit to be withdrawn from time to time upon supplemental orders of the Commission upon the showing by the company that moneys have been expended for capital additions. It is of record that petitioner will need in excess of $1,000,000 to complete construction work now in progress.

The company has an authorized stock issue of $10,000,000 divided into $4,000,000 of preferred stock and $6,000,000 of common. All of the

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common and $875,000 of the preferred is outstanding. The company also reports issued $2,865,000 of Series "A" first and refunding mortgage 7 per cent bonds and $4,566,000 of first mortgage 6 per cent bonds, exclusive of $2,865,000 pledged as collateral. In addition, applicant shows current liabilities as of August 31, as follows:

Notes payable		$730,000 00
Accounts payable:		
Audited vouchers	$531,022 00	
Unvouchered invoices	165,912 93	
Pay rolls	71,255 19	
Purchase contracts	25,630 79	
Deposits, prepayments	413,394 94	
Total accounts payable		1,207,215 85
Accruals		200,308 78
Total		$2,137,524 63

Testimony herein indicates that the company proposes to use proceeds from the sale of its bonds, after reimbursement, to pay, in part, its current liabilities.

I herewith submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue, sell and pledge bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Gas Company be and it is hereby authorized to issue and deposit with the trustee under its first and refunding mortgage $2,000,000 of its first mortgage 6 per cent bonds due November 1, 1950, and to issue and sell, at not less than 95.65 per cent of face value, plus accrued interest, $2,000,000 of its first and refunding mortgage 5½ per cent thirty-year gold bonds.

The authority herein granted is subject to the following conditions:

1. The proceeds obtained from the sale of $1,055,516.60 of the first and refunding mortgage bonds herein authorized may be used by applicant to finance, in part, the cost of constructing additions and betterments to its properties prior to July 31, 1922. The proceeds from the sale of the remaining $944,483.40 of said first and refunding bonds shall be deposited with the trustee and expended only for such purposes as the Railroad Commission may hereafter authorize.

2. Southern California Gas Company shall keep such record of the issue, deposit and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth

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day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $1,500.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of September, 1922.

DECISION No. 11038.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING IT TO ISSUE AND TO SELL CERTAIN OF ITS GENERAL REFUNDING SERIES B SIX PER CENT BONDS.

Application No. 8272.

Decided September 29, 1922.

Murray Bourne, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

In this application, as amended at the hearing, Midland Counties Public Service Corporation asks permission to issue and sell $396,000 of its general refunding Series B 6 per cent thirty-year bonds for the purpose of financing the cost of extensions, additions and betterments.

By Decision No. 9555, dated September 23, 1921, the Railroad Commission authorized applicant to execute a mortgage securing a total issue of $5,000,000 of general refunding mortgage bonds. Heretofore the Commission has permitted the company to exchange $454,000 of Series A 7½ per cent general refunding mortgage bonds for a like amount of underlying first and refunding mortgage bonds, and to sell $801,000 of such Series A bonds to pay indebtedness and to finance construction expenditures made prior to July 31, 1921.

The petition now before the Commission involves the financing of applicant's capital expenditures made since July 31, 1921, by the issue and sale of additional general refunding bonds. The bonds now proposed to be issued are designated Series B, bear interest at 6 per cent per annum, mature thirty years after date and are callable at 105 for the first ten years and at 102½ thereafter. Arrangements have been

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made to sell the entire amount applied for at 95.65 per cent of face value, plus accrued interest.

Testimony and exhibits herein show that applicant up to August 31, 1922, had expended, for capital purposes, the sum of $217,764.91, for which it has not been reimbursed by the issue of stock or bonds. As the company, under the terms of its general refunding mortgage, is entitled to have bonds certified by the trustee up to 75 per cent of the cost of additions and betterments, it now asks permission to issue $163,323.68 of general refunding bonds to finance in part these reported expenditures of $217,764.91. The proceeds from the sale of the remaining $232,676.32 of bonds herein applied for will be held by applicant in a special fund to be expended for additions and betterments only when hereafter authorized by the Commission in a supplemental order or orders. The petition shows that the company will be required to expend in excess of $500,000 to complete work now in progress.

Applicant as of July 31, 1922, reported its assets and liabilities as follows:

ASSETS.

Fixed capital		$3,180,794 36
Current assets:		
Cash	$68,913 99	
Notes receivable	87,509 10	
Consumers accounts receivable	71,582 69	
Materials and supplies	169,756 57	
Miscellaneous	8,305 24	
Total current assets		406,067 59
Treasury securities		118,108 59
Special deposit		5,000 00
Deferred charges:		
Unamortized discount	$76,866 54	
Prepayments	12,749 04	
Total deferred charges		89,615 58
Suspense:		
Audited invoices	$11,334 19	
Miscellaneous	501 55	
Total suspense		11,835 74
Total assets		$3,811,421 86

LIABILITIES.

Capital stock:		
Authorized	$2,000,000 00	
Less treasury stock	999,500 00	
Stock outstanding		$1,000,500 00
Assessments		200,100 00
Bonds:		
First mortgage	$255,000 00	
General refunding mortgage	1,255,000 00	
Total bonds		1,510,000 00

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Current liabilities:		
Accruals	$47,194 03	
Consumers deposits	8,934 97	
Prepayments	3,906 30	
Notes payable	593,950 32	
Miscellaneous	7,191 15	
Unaudited invoices	11,334 19	
Pay roll	9,934 46	
Accounts system corporations	109,065 18	
Audited vouchers	7,813 85	
Total current liabilities		799,324 45
Surplus and reserves:		
Reserves	$252,479 64	
Surplus	49,017 77	
Total		301,497 41
Total liabilities		$3,811,421 86

I herewith submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Midland Counties Public Service Corporation be and it is hereby authorized to issue and sell, on or before December 31, 1922, at not less than 95.65 per cent of face value, plus accrued interest, $396,000 of its general refunding Series B 6 per cent thirty-year bonds.

The authority herein granted is subject to further conditions as follows:

(1) Applicant may use the proceeds from the sale of $163,323.68 of the bonds herein authorized to finance such part of the cost of the expenditures made prior to August 31, 1922, and referred to in the foregoing opinion, as is properly chargeable to capital account, as defined by the uniform classification of accounts prescribed or adopted by the Railroad Commission.

(2) The proceeds from the sale of the remaining $232,676.32 of bonds herein authorized shall be placed by applicant in a special deposit and expended only when and as authorized by the Commission in a supplemental order or orders.

(3) The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $396.

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(4) Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of September, 1922.

DECISION No. 11039.

IN THE MATTER OF THE APPLICATION OF FRESNO CITY WATER CORPORATION FOR AN ORDER AUTHORIZING IT TO ISSUE AND TO SELL CERTAIN OF ITS FIRST AND REFUNDING SERIES B FIVE AND ONE-HALF PER CENT BONDS.

Application No. 8273.

Decided September 29, 1922.

Murray Bourne, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Fresno City Water Corporation asks permission to issue and sell, at not less than 95.65 per cent of face value, $150,000 of its first and refunding mortgage Series B 5½ per cent thirty-year gold bonds for the purpose of financing construction expenditures.

The testimony and exhibits filed herein show that the company, up to July 31, 1922, has expended for capital purposes, for which it has not been reimbursed, the sum of $213,913.57; that it will need $50,473 to complete construction work now in progress; and that it will be required to expend approximately $83,268 in the immediate future for extensions, additions and betterments. Statements setting forth these expenditures in detail have been filed in this proceeding.

Applicant at this time, however, seeks permission to issue and sell only $150,000 of its first and refunding mortgage bonds, such bonds to be designated Series B; to bear interest at 5½ per cent per annum; to mature thirty years after date, and to be callable at 105 for the first ten years and at 102½ thereafter. The company proposes to sell these bonds at 95.65 per cent of face value and to use the proceeds to reimburse its treasury for capital expenditures made by it prior to July 31, 1922, for which it has not been reimbursed, or to pay outstanding current liabilities incurred in making such capital expenditures. Such pro-

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ceeds not used to pay current liabilities, after reimbursement, will be used to pay for future capital additions, so testimony herein shows.

As of July 31, 1922, the company reports outstanding $350,000 of stock and $698,000 of bonds, the latter consisting of $298,000 of first mortgage five per cent bonds of Fresno City Water Company, applicant's predecessor, and $400,000 of petitioner's first and refunding mortgage Series A 6½ per cent bonds due 1956. Its current liabilities, as of the same date, are reported as $117,106.54.

I herewith submit the following form of order:

ORDER.

Fresno City Water Corporation having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Fresno City Water Corporation be and it is hereby authorized to issue and sell, on or before December 31, 1922, at not less than 95.65 per cent of face value, plus accrued interest, $150,000 of its first and refunding mortgage Series B 5½ per cent bonds.

The authority herein granted is subject to further conditions as follows:

1. Applicant may use the proceeds from the sale of the bonds herein authorized to finance, in part, such of the cost of the extensions, additions and betterments referred to in the foregoing opinion as is properly chargeable to capital account as defined by the uniform classification of accounts prescribed by the Railroad Commission.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $150.

3. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of September, 1922.

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DECISION No. 11047.

P. CLIFTON HOMER ET AL.

vs.

A. P. BALDWIN.

Case No. 1769.

Decided October 2, 1922.

RATES—WATER UTILITY—SERVICE CONNECTION CHARGES—REFUND.—The practice of compelling consumers to pay charges for service connection is declared to be contrary to the Commission's orders and the money so paid is ordered refunded by monthly credit of 10 per cent on bills.

P. Clifton Homer, for Complainants.
R. M. Fulton, for Defendant.

BY THE COMMISSION.

OPINION.

This complaint is made by P. Clifton Homer and seventy-seven other consumers against the rates and practices of A. P. Baldwin and E. Rosalie Baldwin, who operate a public utility water system in Bowen's Main, Moneta, and Figueroa Tract in Los Angeles County.

The complaint alleges in effect that some of the consumers are supplied at flat rates and some at meter rates and that this procedure results in discrimination against the metered consumers. It is also alleged that the rates charged by defendant are exorbitant and considerably in excess of those charged on adjacent tracts.

It is further alleged that applicants for service are compelled to pay $9 for service connections and that meter readings should be made on the first day of each month instead of the last day of the month as is the present custom.

A public hearing in this matter was held at Los Angeles before Examiner Williams, of which all interested parties were duly notified and given an opportunity to be present and to be heard.

This water system consists of two eight-inch wells, one 120 feet deep and equipped with a four-inch deep well cylinder and pump head; the other well has a depth of 240 feet and is operated by air lift. A 15-horsepower electric motor is so located that it can be belt connected to either well. Storage is provided by a 20,000-gallon wood stave tank on a forty-foot tower, and by two 5,000-gallon wood stave tanks on twenty-five foot towers.

The distribution pipe system consists of approximately 12,500 feet of two-inch screw pipe to which 128 services are connected. Meters have been installed on twenty-eight services.

The distribution pipe system is owned by J. Frank Bowen who subdivided this tract, and has permitted the proprietors of the water system to utilize the pipe lines without charge. The service pipes have

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been installed at the expense of the individual consumers who have been charged $9 for each service connection.

At the hearing in this matter, Mr. F. M. Faude, one of the Commission's hydraulic engineers, presented a report prepared after an investigation of the matters complained of and of the revenues and expense from operation of the system. The statements and recommendations contained in this report were accepted by the complainants, and, with some exceptions as to the adequacy of allowances for maintenance and operating expense, by the defendants. Inasmuch as the allowances recommended by the Commission's engineer for maintenance and operation indicate that the present revenues received by the utility do not yield an exorbitant return upon the investment, further discussion of the objections of defendant is unnecessary.

This report shows that a reasonable maintenance and operating expense is $2,365 per year and that a fair allowance for depreciation annuity is $198. Revenues for the year 1922 were estimated at $2,550, or slightly less than the sum of estimated maintenance and operating expense and depreciation annuity. It is therefore apparent that the utility is receiving no return whatever upon the money actually invested in the system. The allegation of complainants that the present rates are exorbitant seems, therefore, without foundation.

It is apparent, however, that the present flat rate schedule of charges is poorly designed and results in discrimination against consumers who are supplied through meters. The most satisfactory solution of the difficulty would be through the metering of all services but the plan has the disadvantage of requiring the expenditure of a large sum of money by the owners of the system. This additional investment, on top of a recent expenditure of several thousand dollars for a new well, tank and pumping equipment, would at this time result in a serious financial burden.

The establishment of an equitable graduated schedule of flat rates together with the gradual metering of the remaining services will go far toward removing discrimination and improving service.

The flat rate schedule established in the accompanying order is designed to yield approximately the same revenues as are earned under the present schedule of rates.

On the higher ground at the southeast corner of this tract the service to consumers has, at times in the past, been inadequate. The recent installation of a high tank has, however, improved service in this area. Waste of water by some of the flat rate consumers has also been a contributing cause of poor service and it is suggested that those consumers who habitually waste water be provided with meters as rapidly as possible.

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Applicants for service have in the past been compelled to pay $9 each for service connections and all services on the system have been installed in accordance with this procedure. Such action is contrary to the Commission's orders and the money so paid by consumers should be refunded. In order that an embarrassing financial burden upon the owners of the system may be avoided the accompanying order will provide that such refunds may be made as credits upon the monthly bills for water consumed at the rate of 10 per cent of the total amount of such bills.

Complainants ask that the utility be compelled to read meters on the first day of the month. As no good reasons appear to justify the desired change such an order will not be required.

ORDER.

P. Clifton Homer and others having made complaint in the above entitled proceeding, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by A. P. Baldwin and E. Rosalie Baldwin are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for water delivered to consumers.

It is hereby further found as a fact that certain practices of A. P. Baldwin and E. Rosalie Baldwin in the conduct of their public utility water system are unjust and unreasonable and should be discontinued.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that A. P. Baldwin and E. Rosalie Baldwin be and they are hereby directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers in Bowen's Main, Moneta, and Figueroa Tract in Los Angeles County, such rates to be charged for water service rendered subsequent to October 31, 1922:

MONTHLY FLAT RATES.

For residences of five rooms or less	$1 00
For each additional room over five	10
For each bath tub	25
For each toilet	25
For each garage and one automobile	25
For each additional automobile	15
For each barn with not more than one horse or cow	25
For each additional horse or cow	15
Sprinkling or irrigating lawns or gardens, for each month during which water is used, per 100 square feet of surface irrigated	05
Stores or shops	1 50
Soda fountains either alone or in connection with other business	1 50

All other use to be charged for at meter rates.

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Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, the entire cost shall be borne by the utility. If installed at the request of the consumer, the cost of meter and installation shall be advanced by the consumer to the utility and the moneys so advanced shall be refunded to the depositor as credits on monthly bills for water furnished at the rate of 10 per cent of the total amount of monthly bills.

MONTHLY METER RATES.

The monthly minimum charge of $1.50 entitles the consumer to 800 cubic feet of water. All water used in excess of 800 cubic feet is to be charged for at the rate of 8 cents per 100 cubic feet.

It is hereby further ordered, that upon presentation of proper evidence of payment by consumers for service connections for which the consumers have not received proper reimbursements, in cash or in water consumed, A. P. Baldwin and E. Rosalie Baldwin be and they are hereby directed to make refund of such payments in monthly credits on bills for water consumed at the rate of one-tenth of the total amount of such bills, and to continue these monthly credits until such time as the entire amount of payments by consumers shall have been refunded.

It is hereby further ordered, that A. P. Baldwin and E. Rosalie Baldwin be and they are hereby directed to install service connections free of charge upon receipt of proper application for service and upon satisfactory assurance that use of water will commence immediately after the completion of the service connection and thereafter will be reasonably continuous.

It is hereby further ordered, that A. P. Baldwin and E. Rosalie Baldwin be and they are hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with their consumers, such rules and regulations to become effective upon their acceptance by the Commission.

It is hereby further ordered, that in all other respects the above entitled complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this second day of October, 1922.

DECISION No. 11048.

IN THE MATTER OF THE APPLICATION OF THE PITTSBURG-SACRAMENTO AUTO FERRY, INCORPORATED, A CORPORATION, FOR LEAVE TO ISSUE AND SELL CAPITAL STOCK.

Application No. 8268.
Decided October 3, 1922.

SECURITIES—SALE OF STOCK—DEFERRED PAYMENTS—NOTES.—The Commission announced it did not look with favor on the company's requiring notes for balances due on stock subscriptions. If the subscriber is unable to make full cash payment, it is pointed out, the subscription agreement will show the balance due and there should be no necessity to make him give a note for the remainder.

tum Suden and tum Suden, by *Peter tum Suden*, for Applicant.

MARTIN, *Commissioner.*

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OPINION.

In this application the Railroad Commission is asked to make its order authorizing Pittsburg-Sacramento Auto Ferry, Incorporated, to issue and sell, at not less than par, $250,000 of its common capital stock.

The record shows that applicant was incorporated on or about August 15, 1922, with an authorized capital stock of $250,000, divided into 25,000 shares of the par value of $10 each. The company was formed for the purpose of establishing and operating a passenger, automobile and freight ferry service between Pittsburg, Contra Costa County, and the shore of Solano County at or near the town of Collinsville.

Avon J. Hanford, applicant's president, testified that there is now, and has been for some time, considerable demand and need by residents and agriculturalists of what is known as the River Islands District, for a permanent and efficient ferry service between Pittsburg and Solano County. The operation and maintenance of a ferry between these two points equipped to transfer trucks and wagons will, it is said, enable those living in the region around Rio Vista, Birds Landing and Collinsville to transport their produce to Contra Costa County and to the bay cities more quickly than they can over existing routes, a detour of about twelve miles being saved. In addition, the proposed ferry will provide a shorter route for automobile traffic betwen Sacramento and San Francisco.

To obtain the money necessary to purchase or build a ferry boat, to acquire lands and rights of way and to build wharves, slips and other necessary structures in connection with this proposed business, applicant now asks permission to sell all of its authorized stock. The company estimates that the sum of $100,000 will be necessary to purchase a boat suitable for its needs and that if unable to purchase such a boat, about $140,000 will be needed to build one. It reports that $20,000 will be needed to purchase the land necessary for its terminals and to acquire rights of way for roads leading to and from its landings, and that $40,000 must be expended in building wharves, slips, aprons and office buildings.

It appears, however, that applicant's plans as yet are of a tentative nature only and that final arrangements have not been made for the purchase or construction of a boat or for the acquisition of the terminal site on the Solano County shore. For this reason, I believe that the order herein, while authorizing the issue and sale of stock, should contain a condition that no proceeds might be expended for a boat, landings or wharves, etc., until authorized by the Commission in supplemental orders upon the filing by applicant of detailed statements of the proposed expenditures and of its final plans.

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The company proposes to offer its stock to the public at its par value. It asks permission, however, to expend a sum equal to 20 per cent of the proceeds to pay selling commissions, incorporating costs, engineering and legal fees. Mr. Hanford testified, in his opinion, that an expenditure of at least that amount for those purposes would be necessary to dispose of the stock successfully.

The company expects that a portion of its stock will be sold under stock subscription agreements providing for payment in installments. At the hearing, reference was made of applicant accepting notes for deferred payments. The Commission does not look with favor on the company's requiring notes for balances due on stock subscriptions. If the subscriber is unable to make full cash payment, the subscription agreement will show the balance due and there should be no necessity to make him give a note for the remainder. It is, of course, understood that no stock shall be delivered until fully paid.

I herewith submit the following form of order:

ORDER.

Pittsburg-Sacramento Auto Ferry, Incorporated, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the petition should be granted as herein provided;

It is hereby ordered, that Pittsburg-Sacramento Auto Ferry, Incorporated, be and it is hereby authorized to issue and sell, on or before June 30, 1923, at not less than par, $250,000 of its capital stock.

The authority herein granted is subject to further conditions as follows:

(1) Of the proceeds from the sale of the stock herein authorized, 20 per cent, if necessary, may be used to pay bona fide and reasonable organization and incorporation expenses, selling expenses, engineering and legal fees. The remainder of the proceeds, and such portion of the 20 per cent not necessary for the purposes mentioned, shall be deposited in a bank or banks and expended only as hereafter authorized by the Railroad Commission in a supplemental order or orders.

(2) Applicant shall file with the Commission a copy of any stock prospectus it might issue and a copy of its stock subscription agreement.

(3) Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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(4) The authority herein granted will not become effective until applicant has filed with the Commission a copy of its franchise.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of October, 1922.

DECISION No. 11049.

IN THE MATTER OF THE PETITION TO INCREASE FARES OF LIBERTY BUS LINE, UNDER RULE VII.

Application No. 8059.

Decided October 3, 1922.

Richard W. Brannon, for Applicants.

BY THE COMMISSION.

OPINION.

The applicant herein is a copartnership composed of W. R. Brannon and Richard W. Brannon, and is engaged in operating a passenger stage line between San Diego and the base hospital at Camp Kearny, a distance of 16½ miles. The present one-way and round trip fares between these points are 56 cents and 93 cents, respectively, which it is here proposed to increase to 60 cents and $1.

A public hearing was had on the application before Examiner Eddy at San Diego on August 28, 1922, on which date the matter was submitted and is now ready for decision.

The bus line owns no equipment, but leases three cars and employs the owners thereof as drivers, paying therefor $2.30 a round trip for the use of the car, and $1 for the service of the driver. If the increased fares be granted, the drivers will be allowed an additional 20 cents a round trip for the lease of their equipment. For the use of these cars, the applicant last year paid $9,106.85, and to the operators thereof, as wages, $4,017.30. The expenditures for bonds and licenses amounted to $1,096.32; for casual station help, $449.95; station rent, $480; general expenses, $504; and proprietors' salaries, $2,400. The gross revenues for the year 1921 were $18,539.19; the expenditures were $18,072.70, leaving a profit for the year of $466.49. The gross revenues for the six months ending June 30, 1922, were $9,792.31, and the expenditures $9,436.74, leaving a margin of $355.57. The business during July of this year is said to have been conducted at a loss of $15.

The applicant has been operating a service to Camp Kearny for some years. Early in December, 1920, the Camp Kearny hospital was opened as a tuberculosis hospital, the military activities of the camp having ceased. The automobile stage service of the applicant was

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extended to the hospital, resulting in an increase in the round trip mileage from 30.5 miles to 33 miles. During 1921 nearly 500 patients were quartered at the hospital; at the present time there are 238 patients and 17 enlisted men. The record indicates that the officers own their own cars and the government provides a bus for the use of the nurses. Many of the patients are able to secure transportation without cost from the hospital to San Diego in machines of passers-by, but call upon the applicant for return transportation. The number of passengers handled from San Diego to the hospital during 1921 was 20,573, and from the hospital to San Diego 16,552, a difference of 4021. This difference for the first six months of 1922 was 1561 passengers. During 1921 there were available 63,352 seats, of which 37,125 were occupied and 26,227 empty.

The medical officer in charge of the hospital and the post commander of the American Legion, after an investigation, have expressly asked that the desired increases be granted.

The testimony further showed that the hospital at Camp Kearny is to be discontinued by the U. S. Government and when final action is taken the service of this applicant can not be continued by reason of lack of patronage.

The Commission does not look with favor upon the operations of a common carrier with leased automobiles, but in view of the fact that at best the service will probably not be continued for more than a few months, this feature need not here be considered as controlling. We believe the application should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted, and the Commission being fully advised;

It is hereby ordered, that W. R. Brannon and Richard W. Brannon, copartners doing business under the fictitious name of Liberty Bus Line, be and they hereby are authorized to establish, effective ten (10) days from date hereof, the following rates for the transportation of passengers between San Diego and the United States Government Hospital at Camp Kearny:

One-way fare	60 cents,	thirty day limit.
Round trip	$1.00	thirty day limit.

Dated at San Francisco, California, this third day of October, 1922.

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DECISION No. 11050.

IN THE MATTER OF THE APPLICATION OF WILLIAM W. BACON, JR., AND JACQUELINE E. BACON, HIS WIFE, FOR LEAVE TO SELL, AND OF DONALD P. CONDIT FOR LEAVE TO PURCHASE, A LOCAL WATER SYSTEM SITUATED NEAR THE CITY OF ARCADIA, CALIFORNIA.

Application No. 8188.

Decided October 3, 1922.

Walter F. Dunn, for Applicant.

BY THE COMMISSION.

OPINION.

The above entitled applicants own and operate a small public utility water system, supplying water for irrigation purposes to some four or five consumers, covering 200 acres of land situated about one-half mile southwest of the city of Arcadia, Los Angeles County, California.

In this application the Commission is asked to authorize the transfer of the public utility water system to Donald P. Condit, who joins in the application.

A public hearing in the matter was held before Examiner Williams, of which hearing proper notice was given and those interested afforded an opportunity to appear and to be heard.

The property involved consists of the east fifteen (15) acres of lot one (1) of E. J. Baldwin's addition No. 2 to Santa Anita Colony, Los Angeles County, California, together with the well, pumping plant, pipe lines, weir box and other property appurtenant thereto, used in the water utility business.

The testimony shows the purchase price to be $28,000, of which $9,000 is considered a fair value for the water system. Mr. Condit has had some experience in the operation of water systems, and is a responsible party. He intends to make his home on the property and give it his personal attention. Mr. Condit expressed a willingness to assume all the obligations involved in operating the system as a public utility.

There was no evidence presented to oppose the granting of this application, and the Commission is of the opinion that it should be granted.

ORDER.

William W. Bacon, Jr., and Jacqueline E. Bacon, his wife, and Donald P. Condit, having made joint application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the granting of this application will in no way work a hardship on applicants' consumers and that public interest demands that the application be granted; and

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Basing the order upon the foregoing finding of fact and upon the statements of fact in the preceding opinion;

It is hereby ordered, that William W. Bacon, Jr., and Jacqueline E. Bacon, his wife, be and they are hereby authorized to sell the water system referred to in this application to Donald P. Condit, upon the following conditions:

1. The authority herein granted shall apply to the following utility property:

The well, pumping plant, pipe lines, weir box, and any other property appurtenant thereto, used in the water utility business, located on the east fifteen acres of Lot One (1) of E. J. Baldwin's Addition No. 2 to Santa Anita Colony, Los Angeles County.

2. The authority herein granted to transfer said water system shall apply only to such transfer as shall have been made on or before December 1, 1922, and a certified copy of the instrument of conveyance shall be filed with the Commission by William Bacon, Jr., and Jacqueline E. Bacon, his wife, within thirty (30) days of the date on which it is executed.

3. Within ten (10) days from the date on which William W. Bacon, Jr., and Jacqueline E. Bacon, his wife, actually relinquish control and possession of the properties herein authorized to be sold, said applicants shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

4. The consideration given for the sale of this public utility water system shall not be urged before this Commission, or any other public body, as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this third day of October, 1922.

DECISION No. 11051.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRING OPERATION OF AUTO BUS LINE IN THE COUNTY OF SAN DIEGO, BETWEEN EDGEWARE STREET IN KENSINGTON PARK ALONG ADAMS AVENUE TO PARK BOULEVARD IN THE CITY OF SAN DIEGO, CALIFORNIA.

Application No. 8216.

Decided October 3, 1922.

Read G. Dilworth, for Applicant.
S. J. Higgins, for City of San Diego.
W. W. B. Seymour, for Normal Heights Assembly.

BY THE COMMISSION.

OPINION.

The application herein, as amended at the hearing, asks for a temporary certificate of public convenience and necessity requiring the

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operation of an automobile bus line from Edgeware road in San Diego County, a short distance outside the city limits of San Diego, along Adams avenue, to Park boulevard in the city of San Diego. At the latter point connection will be had with the street car lines of the applicant. The latter proposes to rebuild its tracks along Adams avenue removed several weeks ago, the work to begin shortly and to be completed some time in December. In the meantime, it is operating a bus line along this route handling on an average of 1500 people a day each way. On the inbound journey fares are collected on the auto stages and transfers issued to the street car line. Those who ride to the end of the bus line at Park boulevard and continue their journey to the center of the city on the street car line now pay a through fare of 10 cents for the joint service. Should a passenger disembark from the bus at some point on Adams avenue short of Park boulevard no fare is now collected; the bus line here proposes to charge for that service a 5-cent fare. The application provides for the same fares that were in effect when the street car line was in operation.

A public hearing was had at San Diego on September 29, 1922, before Examiner Eddy. The city of San Diego was represented at the hearing by the city attorney who stated that there was no objection to the granting of a temporary certificate. An appearance was entered for the Normal Heights Assembly in support of the granting of the application.

A certificate of public convenience and necessity will be issued, the same to be revoked when the work of relaying the tracks on Adams avenue is completed and street car service resumed. The applicant will be expected to notify the Commission promptly when this work is completed.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted, and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by San Diego Electric Railway Company of an automobile stage line as a common carrier of passengers between Edgeware street in Kensington Park, along Adams avenue to Park boulevard in the city of San Diego, California, and a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

1. Applicant herein shall file within a period of not to exceed ten (10) days from date hereof written acceptance of the certificate herein granted; shall file within a period of not to exceed twenty (20) days from date hereof tariff of rates and time schedules, such tariff of rates to be identical with those as shown in applicant's Local Passenger Tariff No. 4, C. R. C. No. 23 and C. R. C. No. 2, on file with the Commission; time schedules to be identical with those filed as Exhibit "B"

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attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred, nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The certificate herein granted is for the temporary operation only of an automobile stage line as herein proposed, this certificate to expire immediately upon the completion of construction by applicant herein of an electric railway system and the commencement of operation thereon.

Dated at San Francisco, California, this third day of October, 1922.

DECISION No. 11053.

PROCEEDINGS ON THE COMMISSION'S OWN MOTION TO REQUIRE RESTORATION OF STREET CAR SERVICE BY THE SAN DIEGO ELECTRIC RAILWAY COMPANY ON ADAMS AVENUE IN SAN DIEGO AND TO DETERMINE THE REASONABLE, PROPER AND ADEQUATE FACILITIES AND REGULATIONS TO BE REQUIRED FOR FUTURE MAINTENANCE OF SUCH SERVICE.

Case No. 1809.

Decided October 4, 1922.

ABANDONMENT—ELECTRIC RAILWAY—COMMISSION'S AUTHORIZATION NECESSARY.—No utility, it is held, has a right arbitrarily to discontinue its service and withdraw property dedicated to a public use. The fact that a service is rendered at a loss does not justify its abandonment prior to the submission to the Commission of all the evidence bearing upon this question and the Commission's final decision thereon.

R. G. Dilworth, for San Diego Electric Railway Company.
H. C. Ryand and *A. D. Hendee*, for districts outside city.
S. J. Higgins, City Attorney, and *Arthur Wright*, Deputy City Attorney, for City of San Diego.
H. S. Utley, District Attorney, and *E. S. Lovett*, Deputy District Attorney, for County of San Diego.

ROWELL, *Commissioner*.

OPINION.

This proceeding on the Commission's own motion was instituted at the formal request of the city of San Diego and of a committee of citizens to require the restoration of street car service upon Adams avenue by the San Diego Electric Railway Company. An order to show cause was issued, returnable September 12th, and a public hearing was held in San Diego on September 12th and 13th. At the conclusion

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of this hearing a conference was held between representatives of the city and of the company, a record of which conference was, by stipulation, made a part of the record of this proceeding. The matter is now submitted and ready for decision.

It appears that the company, on the night of August 26, 1922, removed its tracks on Adams avenue in the city of San Diego from Park boulevard to a point near the city limits, the portion removed being approximately three-quarters of a mile in length. This left the remainder of the line, which extends a mile beyond the city limits, without means of street car service. The company has, however, maintained and operated motor busses for the transportation of passsengers from Park boulevard to the end of the Adams avenue car line, over which street car service was formerly rendered. No authorization was obtained from the Railroad Commission for this discontinuance of street car service and substitution of motor busses, nor was any notice given to the public of the intended change.

In response to the Commission's order to show cause, the company appeared and admitted the discontinuance of car service and the taking up of tracks without prior notice to the public or authorization from this Commission, but claimed as justification for their action that the city council was about to institute proceedings for the paving of Adams avenue, thus imposing upon the company the cost of paving between its tracks and for two feet on each side thereof, all of which it was claimed was contrary to a previous understanding that such action would not be taken prior to a special election which had been called for October 10th to submit to the voters certain amendments to the city charter authorizing the city council to relieve the company from the burdensome paving requirements of its franchises. The city denied that it had in any sense broken faith with the company, and considerable evidence was introduced dealing with prior negotiations on the paving question. It is unnecessary, however, to further consider this issue. It is referred to here solely to indicate the position taken by the parties at the hearing. A complete solution of the paving problem on Adams avenue was accomplished by the agreement reached in the conference between the representatives of the city and the company, to which further reference will be made later.

The immediate issue, and in a strict sense the sole issue presented, is whether or not the discontinuance of service and the removal of tracks on the Adams avenue line was justified. In the absence of prior authorization by the Commission for such discontinuance based upon a proper showing as to the profitableness of this line and of the system as a whole, this question admits of but one answer. No utility can arbitrarily discontinue its service and withdraw property voluntarily

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dedicated to a public use. It is true that the company at the time of the hearing offered for filing a supplemental application in a prior proceeding (Application No. 5009) in which the Commission, by its decision of November 14, 1919, Decision No. 6836, had refused authorization for the abandonment of the Adams avenue line because of inadequate showing. The company also submitted some evidence showing that the Adams avenue line has been operated at a loss. These circumstances do not justify the abandonment of service prior to the submission to the Commission of all the evidence bearing upon this question and the Commission's final decision thereon. Therefore, even though the conference between the company and the city officials had not furnished a basis for the restoration of service on Adams avenue, the Commission would feel constrained to make its order requiring the immediate restoration of tracks and resumption of service on this line.

The evidence shows that the Adams avenue line was originally built in 1907, and that at least a part of the construction cost was borne by persons interested in the development of real estate subdivisions now served by this line. It was a single track line, unballasted, and due to the adobe character of the soil traversed, has within the past few years required expensive maintenance during the rainy season to render it reasonably safe for travel. It was shown that none of the ties and the rails which were taken up by the company on August 26th were fit for further use. The restoration of service, therefore, necessarily involves the reconstruction of this line. The Commission has heretofore indicated that this company should carry out a certain reconstruction program (see Decision No. 6836, *supra*) looking to permanence in the type of construction employed and ultimate economy in operation. The company has expressed its willingness to conform to this program in the reconstruction of the Adams avenue line, notwithstanding the unprofitableness of its operation in the past, provided that reasonable arrangements could be made to relieve the company of the cost of expensive paving between rails and two feet each side thereof. Such an arrangement has been made. In the conference between the representatives of the city of San Diego, county of San Diego, the street car company and the Commission at the conclusion of the hearing in this proceeding, the following plan was agreed upon:

Suggested Solution of Adams Avenue Paving and Traction Problem.

First: That the city of San Diego carry through proceedings for the paving of a strip_____feet in width on each side of Adams avenue. (This would include all of the street excepting the part occupied by the railroad tracks and two feet on either side of the rails, which would be the portion of the street that the railroad company under the present provisions of the law would be required to pave.)

Second: That the street car company agree to start the construction of street car tracks on Adams avenue immediately, and to resume street car service at the earliest possible date. The reconstruction work to be carried on under the same general specifications as were used on Logan avenue, and the concrete base under the rails

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and ties to extend to an approximate depth of fourteen (14) inches below the street surface; this concrete base to fill in between the strips of pavement, and to be brought up to within five (5) inches of the finished surface of the street. The remainder of the distance to the surface of the street to be filled in as the street car company may see fit, to bring to a smooth usable surface.

Third: That the above propositions be predicated upon the condition that the order of the Railroad Commission in the proceeding now pending before it directs the immediate resumption of street car service on Adams avenue.

Fourth: That the foregoing plan be presented to the common council of the city of San Diego with the strong recommendation that it be adopted.

(Signed) JOHN L. BACON,
Mayor, City of San Diego.
(Signed) S. J. HIGGINS,
City Attorney of San Diego.
(Signed) H. S. UTLEY,
District Attorney,
By E. S. Lovett, Assistant District Attorney, San Diego County.
(Signed) CLAUS SPRECKELS,
General Manager, San Diego Electric Railway Company.
(Signed) READ G. DILWORTH,
General Counsel, San Diego Electric Railway Company.
(Signed) HUGH GORDON,
Attorney, California Railroad Commission.
(Signed) RICHARD SACHSE,
Chief Engineer, California Railroad Commission.

Dated: San Diego, California, September 13, 1922.

The city council, by its Resolution No. 28172 adopted September 14, 1922, has approved this plan. The type of reconstruction therein proposed conforms to the permanent and substantial character of construction which the Commission has heretofore recommended.

The Commission is also advised that the company proposes, not merely the construction of this single track line but to extend its reconstruction work so as to make it a double track line, both over that portion which was removed and the remaining portion extending beyond the city limits to the end of the line. The Commission is further advised that the company has already ordered additional rail, which can be used for this purpose, and the delivery of which is expected early in October. It is apparent, therefore, that through the cooperation of the city officials and of the company, it has been made possible to secure at an early date a new double track car line on Adams avenue in lieu of the former single track car line which, according to the evidence, had become wholly inadequate for the transportation needs of the eight to ten thousand people residing in the districts traversed by it.

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ORDER.

A proceeding having been instituted on the Commission's own motion to require restoration of street car service by the San Diego Electric Railway Company on Adams avenue in San Diego and to determine the reasonable, proper and adequate facilities and regulations to be required for the future maintenance of such service, public hearings having been held and evidence, both oral and documentary, received, and the matter submitted:

The Commission hereby makes its finding of fact as follows:

1. The San Diego Electric Railway Company, on the night of August 26 and on the morning of August 27, 1922, did discontinue its street car service theretofore maintained on Adams avenue from Park boulevard to the end of said line on Adams avenue, and did remove its tracks theretofore existing on Adams avenue from said Park boulevard to a point approximately three-quarters of a mile distant therefrom, at or near said city limits of San Diego, and that such discontinuance of service and the removal of tracks was done without prior notice to the public or authorization from this Commission.

2. The tracks maintained and used by the said company on its Adams avenue line in the city of San Diego from Park boulevard to the end of said line prior to August 26, 1922, were and are improper and inadequate for the performance of the transportation service rendered to the public by said company by means of said tracks, and the proper and adequate tracks and facilities to be furnished, constructed and used by said company are those referred to and described in the following order.

And basing its order on said findings of fact and other findings and statements of facts contained in the opinion preceding this order;

It is hereby ordered:

1. That the San Diego Electric Railway Company proceed within ten (10) days from the effective date of this order to reconstruct its street car tracks on its Adams avenue line in the city of San Diego and extending approximately one mile outside thereof, from Park boulevard in said city of San Diego to the end of said line, in accordance with estimates and plans contemplated by the engineer's estimates filed in this proceeding as Commission's Exhibits Nos. 1 and 2; provided, however, that within the said city of San Diego said work shall be carried on under the same general specifications as were used on the reconstruction of the Logan avenue line by said company, with a concrete base under the rails and ties extending to an approximate depth of fourteen inches below the street surface, said concrete base to be brought up to within five inches of the finished surface of the street, said remaining five inches to be filled in with a suitable material to provide a smooth and suitable surface for vehicular travel. The company

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shall, at the commencement of said work, furnish this Commission, for its approval, its plans of work proposed, and in the event that this Commission shall disapprove any portion of said plans, shall modify its work to conform to the recommendations and directions of this Commission. Said work shall be prosecuted diligently and completed at the earliest possible time, not to exceed one hundred and twenty (120) days from the date of commencement thereof, unless interrupted or prevented by circumstances beyond the control of the company, in which event an extension of time shall be granted only upon proper showing and by supplemental order of this Commission.

2. Upon the completion of said track or any portion thereof permitting the extension of car service from Park boulevard toward the end of the Adams avenue line, the company shall resume the operation of its street cars over such completed track or portion thereof.

3. Pending the completion of its track and the resumption of car service on Adams avenue over such new track the company shall continue the operation of the bus service over that portion of its Adams avenue line on which street car service was discontinued August 27, 1922.

4. Upon completion of said track or any portion thereof and upon resumption of street car service, the company shall furnish the Commission satisfactory proof of complete or partial compliance with this order.

5. The effective date of this order is hereby fixed and designated as October 12, 1922.

6. The Commission reserves the right to make such further orders as may appear just and reasonable in this proceeding.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of October, 1922.

DECISION No. 11060.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 7808.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8184.

Decided October 5, 1922.

BY THE COMMISSION.

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FIRST SUPPLEMENTAL ORDER.

The California-Oregon Power Company by Decision No. 10506, dated May 26, 1922, in Application No. 7808 was authorized to issue and sell, at not less than 90, $200,000 of its 7 per cent cumulative preferred stock and by Decision No. 10952, dated September 2, 1922, in Application No. 8184, to issue and sell, at not less than 92, $500,000 of such stock.

The orders of the Commission authorize the company, among other things, to expend an amount equivalent to 2 per cent of the par value to pay commissions and expenses incident to the sale of the stock, but provide that all other proceeds must be placed in a special account to be withdrawn only as authorized by the Commission in supplemental orders. The company now reports that on August 31, 1922, it had on hand $27,405 obtained from stock sold pursuant to Decision No. 10506, and $24,500 derived from that sold under Decision No. 10952.

The company further reports that during the months of June and July it expended for additions, extensions and betterments to its plant and properties the sum of $409,427.43, as shown in some detail in statements filed with the Commission. It appears that $366,755.23 of these reported expenditures have been financed through proceeds obtained from the sale of bonds, leaving a balance of $42,672.20 as of July 31st which has not been paid or provided for by the issue of stock or bonds.

Applicant now asks that it be permitted to use the $27,405 of stock money received under Decision No. 10506, and $15,267.20 received under Decision No. 10952 to finance these reported expenditures. The Commission has given consideration to this request and believes it should be granted as herein provided.

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to use $27,405 of the proceeds obtained from the sale of the stock authorized by Decision No. 10506, dated May 26, 1922, and $15,267.20 obtained from the sale of that authorized by Decision No. 10952 dated September 2, 1922, to finance, in part, the construction expenditures not otherwise capitalized and made prior to July 31, 1922, as shown in detail in the statement of capital expenditures filed with the first supplemental petition in Application No. 7808.

It is hereby further ordered, that the orders in Decision No. 10506, dated May 26, 1922, and Decision No. 10952, dated September 2, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this fifth day of October, 1922.

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DECISION NO. 11061.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF CLASS A SIX (6) PER CENT CUMULATIVE PREFERRED STOCK.

Application No. 8253.

Decided October 5, 1922.

McKee, Tasheira and Wahrhaftig, by *A. G. Tasheira*, for Applicant.

MARTIN, *Commissioner.*

OPINION.

In this application East Bay Water Company asks permission to issue and sell $184,363 of its Class A 6 per cent cumulative preferred stock and to use the proceeds to reimburse its treasury for moneys to be used in making sinking fund payments.

Applicant has bonds outstanding which were issued under two mortgages, one being its first mortgage and the other its unifying and refunding mortgage. The first mortgage, dated January 1, 1916, to Union Trust Company of San Francisco, trustee, provides for a total authorized issue of $15,000,000 of thirty-year 5½ per cent bonds, of which $14,714,800 are reported issued. Of the issued bonds, $9,782,700 are held by the public and $4,932,100 have been deposited with Mercantile Trust Company, as partial security for applicant's unifying and refunding mortgage bonds.

The unifying and refunding mortgage, dated September 1, 1921, to Mercantile Trust Company, trustee, secures an authorized issue of $66,250,000 of bonds. The application shows that there are now outstanding in the hands of the public under this mortgage $2,495,500 of fifteen-year 7½ per cent bonds of Series "A," and $3,000,000 of twenty-year 6 per cent bonds of Series "B," a total of $5,495,500.

The company reports that on January 1, 1923, it will be required to make sinking fund payments under its two mortgages as follows:

To Union Trust Company under the first mortgage	$147,148 00
To Mercantile Trust Company under the unifying and refunding mortgage	37,215 00
Total	$184,363 00

These payments to the trustees may be made in cash which will be used to retire outstanding bonds, or may be made in bonds. The company in now asking permission to refund such payments by the issue of a like amount of stock, is, in effect, asking permission to substitute preferred stock for bonds, a course which the Commission has heretofore authorized this company to take in Decision No. 9964, dated January 4, 1922.

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In that decision the Commission recited that there was no objection to the refunding of funded debt through the issue of stock, provided the company's properties were reasonably capitalized. If the capitalization is in excess of the reasonable value of the properties, surplus earnings should be used to pay funded debt and no stock issued to reimburse the treasury because such earnings were used to meet sinking fund requirements.

I find that the capitalization of applicant's properties has changed little, if any, since the date of the Commission's decision and that therefore we may again properly permit of the refunding of sinking fund payments as requested.

The Commission, by Decision No. 9964, dated January 4, 1922, authorized applicant to sell $300,000 of its Class A stock at not less than $77 per share, and by Decision No. 9655, dated October 27, 1921, to sell $63,225.86 of such stock at not less than $75 per share. The company reports that a portion of this stock was sold on installment payment plans and that it has received stock subscriptions amounting to $12,600 par value in excess of the amounts it is authorized to deliver by those decisions. To fill these subscriptions the company asks that it be permitted to deliver 126 shares of the stock herein requested at the prices at which their purchase was originally contracted, namely, fifty-eight shares at $80, ten shares at $82, fifty-six shares at $83 and two shares at $86. As to the remaining stock herein applied for, the company requests that it be permitted to sell it at not less than $87 per share net.

I herewith submit the following form of order:

ORDER.

East Bay Water Company, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that East Bay Water Company be and it is hereby authorized to issue and sell $184,363 of its Class A 6 per cent cumulative preferred stock and to use the proceeds to reimburse its treasury for moneys used in making the sinking fund payments referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

(1) Of the stock herein authorized, fifty-eight shares may be sold at not less than $80 per share; ten shares at not less than $82 per share; fifty-six shares at not less than $83 per share; and two shares at not

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less than $86 per share. The remaining stock herein authorized shall be sold at not less than $87 per share net.

(2) Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply only to such stock as may be issued and sold on or before June 30, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of October, 1922.

DECISION No. 11064.

IN THE MATTER OF THE APPLICATION OF FRED MEYERS, SOLE OWNER OF THE PULLMAN WATER COMPANY, FOR AN ORDER TO HYPOTHECATE ALL THE PROPERTY OF SAID PULLMAN WATER COMPANY FOR CERTAIN PURPOSES.

Application No. 7154.

Decided October 7, 1922.

C. A. Odell, for Applicant.
M. S. Robenson, for Alois J. Meindersee and Grace Meindersee.

BENEDICT, *Commissioner*.

OPINION.

In this application Fred Meyers, operating under the name of Pullman Water Company, a public utility water system located in Richmond, asks permission to execute a mortgage of his property to secure the payment of a judgment entered against him.

The record shows that on the eleventh day of October, 1920, a judgment for the sum of $5,000 and costs was entered against applicant in the superior court of the State of California, in and for the county of Contra Costa in an action brought by Alois J. Meindersee and Grace Meindersee, his wife, plaintiffs, to recover damages for personal injuries alleged to have been sustained by Grace Meindersee, by reason of negligence on the part of applicant in leaving unguarded and exposed an open excavation in a public street in Richmond.

Thereafter, in the month of January, 1921, a writ of execution was caused to be issued in said action and delivered to the sheriff of Contra Costa County, who, by virtue of such writ of execution levied upon the property and gave notice of sale at public auction. Applicant thereupon commenced an action in the superior court in and for the County of

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Contra Costa to enjoin and restrain the sheriff and Alois J. and Grace Meindersee from proceeding with such sale upon the ground that the properties so levied upon were necessary in the performance of his public utility duties.

It appears, however, that on July 18, 1921, before any judgment was entered in this injunction suit, applicant entered into an agreement with Alois J. Meindersee and Grace Meindersee, by the terms of which he agreed, within ninety days from the date of the filing of the remittitur on appeal with the clerk of said superior court in said damage suit, should said judgment be affirmed, to pay the amount of the judgment, interest and costs, and in the event such payments were not made within such ninety-day period, to cause a mortgage of his properties to be delivered to Alois J. Meindersee and Grace Meindersee, securing the payment of said judgment, interest and costs for a period of six months from the date of the expiration of said period of ninety days.

It appears that the judgment entered by the superior court subsequently was affirmed, the remittitur on appeal being filed on or about April 16, 1922. Applicant therefore now asks permission to execute the mortgage referred to in the agreement and in this opinion.

Copies of the agreement between the two parties and of the proposed mortgage have been filed in this proceeding, being marked Exhibit "A" and Exhibit "B" respectively.

The proposed mortgage, by and between Fred Meyers on the one hand, and Alois J. Meindersee and Grace Meindersee on the other, covers all of applicant's utility properties and, as aforesaid, is intended to secure the payment of the judgment, interest and costs for a period of six months from the expiration of the ninety-day period referred to hereinabove. Should applicant be successful in obtaining the money and paying the judgment within the time specified the mortgage will be released from record. If not so paid, suit may be brought and a decree obtained to sell the properties mortgaged.

At the hearing, applicant testified that in all probability he would be compelled to borrow the moneys necessary to make payment under the mortgage he proposes to execute, upon a long term note. However, the matter of applicant's issuing such a note is not before the Commission at this time, nor is it necessarily a part of this proceeding.

In this application, we are called upon to authorize the execution only of a mortgage evidencing and securing the payment of a judgment, plus, of course, interest and costs, and the authority herein granted will be confined to matters covered by this application. In the event that Mr. Meyers finds it necessary to execute a promissory note or other evidence of indebtedness payable later than one year after date, in

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order to obtain the money needed to make such payment, he must again make application to this Commission requesting such authority.

I herewith submit the following form of order:

ORDER.

Fred Meyers, operating a water system under the name of Pullman Water Company, having applied to the Railroad Commission for permission to execute a mortgage, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided;

It is hereby ordered, that Fred Meyers, operating a water system under the name of Pullman Water Company, be and he is hereby authorized to execute a mortgage upon his public utility properties to secure the payment of the judgment, interest and costs referred to in the foregoing opinion, such mortgage to be substantially in the same form as that filed in this proceeding and marked Exhibit "B"; provided,

That the authority herein given to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of October, 1922.

DECISION No. 11068.

IN THE MATTER OF THE APPLICATION OF OJAI, VENTURA AND LOS ANGELES EXPRESS, WATERMAN AND CARNE, OWNERS, FOR AN ORDER GRANTING PERMISSION TO ESTABLISH REDUCTIONS IN CLASS RATES, ADOPT A UNIFORM CLASSIFICATION, AND SOME NEW RULES AND REGULATIONS TO COVER AUTO TRUCK TRANSPORTATION SERVICE RENDERED BETWEEN OJAI, VENTURA, LOS ANGELES AND INTERMEDIATE POINTS.

Application No. 8034.

Decided October 7, 1922.

RATES—MOTOR CARRIERS—UNIFORM CLASSIFICATION.—Adoption of uniform classification by motor truck carriers is declared to be highly desirable, provided such modifications are made as the particular service rendered by the applicant requires.

Lewis A. Monroe and *Geo. H. Carne*, for Ojai, Ventura and Los Angeles Express.

BY THE COMMISSION.

OPINION.

In this proceeding the Ojai, Ventura and Los Angeles Express, H. O. Waterman and Geo. H. Carne, owners, made application peti-

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tioning the Railroad Commission for authority to adopt "Monroe's Ship-by-Truck Freight Classification" and some additional rules and regulations set forth in Exhibit A attached to the application and made a part thereof.

Adoption of the uniform classification by motor truck carriers is highly desirable, provided, however, such modifications are made as the particular service rendered by the applicant requires.

At the hearing in this proceeding the application was amended modifying the valuation rule to read "10 cents for each $100 excess in valuation or fraction thereof, and eliminate the minimum charge." The rule covering pick-up and delivery other than sidewalk or store-door delivery was amended to read "Rates quoted herein contemplate sidewalk or store-door pick-up and delivery. Where requested to make inside, basement or upstairs pick-up or delivery, and more than 15 minutes is consumed in the performance of such extra service, a charge will be made therefor based on 75 cents per hour per man, with a minimum charge of 15 cents."

With these modifications the Commission is of the opinion that the application should be granted.

ORDER.

It is hereby ordered, that the application in the above entitled proceeding with the modifications as shown in the opinion immediately above, should be and the same is hereby granted.

Dated at San Francisco, California, this seventh day of October, 1922.

DECISION No. 11069.

IN THE MATTER OF THE APPLICATION OF FRANK A. MULLENS AND C. A. CHAMBERS, OWNERS AND OPERATORS OF BURBANK TRANSFER COMPANY, FOR AN ORDER GRANTING PERMISSION TO READJUST FREIGHT TARIFF BY ADOPTING "MONROE'S SHIP-BY-TRUCK FREIGHT CLASSIFICATION," AND A LINE OF CLASS RATES TO BE USED IN CONNECTION THEREWITH, AS A BASIS FOR ASSESSING FREIGHT CHARGES, IN LIEU OF THE PRESENT TARIFF.

Application No. 8061.

Decided October 7, 1922.

Frank A. Mullens, C. A. Chambers and *Lewis A. Monroe*, for Burbank Transfer Company.

BY THE COMMISSION.

OPINION.

In this proceeding Frank A. Mullens and C. A. Chambers, owners and operators of Burbank Transfer Company, petitioned the Railroad Commission for authority to adjust freight rates and charges via auto

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truck between Los Angeles, Glendale, Burbank and intermediate points by adopting "Monroe's Ship-by-Truck Freight Classification" and a line of other class rates to be used in connection therewith.

As the Commission has heretofore held, it is highly desirable that motor truck transportation be on as nearly a uniform basis of classification of freight as the individual traffic of each carrier will permit.

At the hearing in this proceeding the applicants amended their application in regard to the rule covering pick-up and delivery other than sidewalk and store-door, to read: "Rates quoted herein contemplate sidewalk or store-door pick-up and delivery. Where requested to make inside, basement or upstairs pick-up or delivery, and more than 15 minutes is consumed in the performance of such extra service, a charge will be made therefor based on 75 cents per hour per man, with a minimum charge of 15 cents." The valuation rule was amended to read: "10 cents for each $100 excess in valuation or fraction thereof, and eliminate the minimum charge." The second paragraph of the valuation rule was amended to read: "In no case must declared valuation be less than the amount of any c.o.d. bill. The amount of any c.o.d. collection will be considered a declaration of value of shipment unless a greater value is declared."

With these amendments to the application, the Commission believes this application should be granted subject, however, to a future check of the effect on applicants' business. Therefore, the Commission will require that a monthly statement be furnished on the fifteenth of each succeeding month for six months, beginning November 1, 1922, and ending April 30, 1923, showing operating revenues and expenses by months.

ORDER.

It is hereby ordered, that the application in this proceeding should be and the same is hereby granted, subject to the amendments as shown in the opinion above.

It is hereby further ordered, that the applicants in this proceeding will furnish a monthly statement to the Railroad Commission not later than the fifteenth of each succeeding month, for six months, beginning November 1, 1922, and ending April 30, 1923, such report to show operating revenues and expenses in detail.

Dated at San Francisco, California, this seventh day of October, 1922.

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DECISION No. 11079.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 7, 1922.

OVERHEAD ELECTRIC LINE CONSTRUCTION—UNIFORM STANDARDS—POLICY DEFINED. In proceeding to enforce the provisions of chapter 499 of the Statutes of 1911, as amended by chapter 600 of the Statutes of 1915, the Commission announced the policy to be followed as follows: Immediate elimination of all infractions created since 1911, of hazardous conditions, and of minor infractions on the same poles, will be ordered following each inspection, while minor infractions in existence at the effective date of chapter 499 may be eliminated in the usual course of maintenance and reconstruction, provided they are not on the same poles as infractions that are to be removed immediately.

HAZARDOUS CONDITIONS—DANGER TO WORKMEN—COMMISSION'S POWER TO REMEDY. The Commission states that under section 8 of the amended act giving it power to make further additions or changes in the provisions of line construction as it may deem necessary for the safety of employees and the general public, it will require hazardous construction not specifically referred to in the act also to be remedied.

Platt Kent and *J. E. Macdonald*, for The Atchison, Topeka and Santa Fe Railroad Company.
J. E. Macdonald, for Los Angeles Railway Corporation.
Chas. R. Detrick and *W. H. Evans*, for the Sacramento Northern Railroad Company.
W. H. Evans, *J. R. Coles* and *James S. Moore*, for the Western Pacific Railroad Company and the Tidewater Southern Railroad Company.
Chas. P. Cutten and *P. M. Downing*, for the Pacific Gas and Electric Company.
W. A. Wilmer, for San Miguel Interurban Telephone Company.
James H. Howard, for the City of Pasadena.
Roy V. Reppy and *R. E. Cunningham*, for the Southern California Edison Company, San Joaquin and Eastern Railroad Company, and Santa Barbara and Suburban Railway Company.
A. L. Whittle and *H. P. Bell*, for San Francisco-Oakland Terminal Railways.
Chaffee E. Hall and *H. F. Jackson*, for Great Western Power Company of California.
E. R. Northmore, for Los Angeles Gas and Electric Corporation.
James T. Shaw, for Pacific Telephone and Telegraph Company, Imperial Telephone Company, Sacramento Valley Telephone Company, Ontario and Upland Telephone Company, Home Telephone Company of Pasadena, and Southern California Telephone Company.
Hugh H. Craig, for Southern Sierras Power Company, Holton Power Company, and Interstate Telegraph Company.
Carl A. Heinze, for City of Los Angeles, Bureau of Power and Light.
L. Schmidt, for Rio Vista Telephone Company.
R. A. Rose, for Fair Oaks Electric Company.
Chickering and Gregory and *L. M. Klauber*, for San Diego Consolidated Gas and Electric Company.
Chickering and Gregory and *E. A. D'oyly*, for Western States Gas and Electric Company.
G. H. Eels, for Willits Telephone and Telegraph Company.
F. T. Phelps, for California-Oregon Power Company.
W. R. Van Bekkelen, for Coast Counties Gas and Electric Company.
J. J. Lynch, for Postal Telegraph and Cable Company.

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L. H. Sussman, for California Telephone and Light Company.
E. A. Quinn, for San Joaquin Light and Power Corporation, and Midland Counties Public Service Corporation.
F. W. Mielenz, for Napa Valley Electric Company.
S. M. Foster, for the Market Street Railway Company.
Geo. B. Ellis and *Sam. R. Heffley*, for the Associated Telephone Company.
F. A. Miller, for the San Francisco and Sacramento Railroad Company.
S. H. Anderson, for Pacific Electric Railway Company.
W. P. Graham, for Snow Mountain Water and Power Company.
W. H. Davidson, for Peninsular Railway and San Jose Railroads.
W. A. Gasdorf, for Western Union Telegraph Company.
J. M. Sims, for Pacific Coast Railway Company.
W. B. Ballard, for Central California Traction Company, Stockton Electric Railroad Company, Fresno Traction Company and Visalia Electric Railroad Company.
W. G. Rennison, for Petaluma and Santa Rosa Railway Company.
P. R. Roller, for Colusa County Telephone Company, Oxnard Home Telephone Company, and Santa Paula Home Telephone Company.
Shelby Inch, for Placerville Telephone and Telegraph Company.
J. H. Evans, for Evans Telephone Company.
J. T. Ryan, for Amador Electric Light and Power Company.
James B. Kahn, for Alameda Electric Light Plant.
Geo. B. Tuttle, for City of Oakland, Electric Department.
Norman Malcolm, for City of Palo Alto.
H. W. Stitt, for City of Fresno.
A. E. Gilkey, for City of Roseville.
A. H. Babcock, for Southern Pacific Company.
J. F. Pollard, for Coast Valleys Gas and Electric Company.
C. L. Eaton, for Indian Valley Railroad Company.
G. C. Harris, for Tulare Home Telephone and Telegraph Company.
W. E. Hills, for Gilroy Telephone Company, Delta Telephone and Telegraph Company, Nevada-California-Oregon Telephone and Telegraph Company.
E. L. Marsh, for Bell Electric Company.
W. R. Burke, for San Diego and Arizona Railroad Company.
J. C. Kelsey, for Independent Telephone Association of California, U. S. Long Distance Telephone and Telegraph Company, Reedley Telephone Company, Sanger Telephone Company, Corona Telephone Company, Santa Monica Bay Home Telephone Company, Pomona Valley Telephone and Telegraph Union, Downey Home Telephone and Telegraph Company, Whittier Home Telephone and Telegraph Company.
Chas. A. Rolfe, for Southwestern Home Telephone Company.
A. C. Shaw, for Raymond Telephone Company.
H. E. Bigelow, for Bigelow Telephone Company.
A. C. Coffee, for Tuolumne Electric Light and Power Company.
T. C. Vickers, for International Brotherhood of Electrical Workers.

MARTIN, *Commissioner.*

OPINION.

Chapter 499, Statutes of 1911, provided certain standards to be followed in the construction of overhead electric, telephone and signal lines, required that all lines built after the effective date of the act should be in compliance with these standards and that all existing lines should be reconstructed and brought into compliance with the act within a period of five years.

Chapter 600, Statutes of 1915, amended the original act by giving the Railroad Commission authority to grant extensions of the time during which existing lines might be reconstructed to comply with the requirements of the act and also charged the Railroad Commission with the duty of seeing that the act is enforced.

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Various conditions interfered with the completion of reconstruction work within the time specified in the act and the Commission authorized certain extensions of time. During the war period the utility companies that own the larger part of the lines subject to the provisions of the act found their resources as limited by war requirements were severely taxed by demands for service and the Commission required the correction of only that construction that was deemed particularly hazardous. With the return of normal conditions and the lapse of ten years since the passage of the act no reason remains for the further postponement of the necessary reconstruction of the relatively small proportion of the present total line mileage that has not been rebuilt in the ordinary course of extension and maintenance work, nor has any satisfactory excuse been heard for the continued existence of infractions in lines constructed or reconstructed since 1911.

The Commission has therefore instituted the present proceeding as a preliminary step in the final discharge of the duty of complete and general enforcement of the act. A public hearing was held in San Francisco on January 16, 1922, at which were present representatives of a large number of the owners of overhead electric and signal lines within the state. At this hearing an announcement was made of the purpose of the Commission to take active steps toward the enforcement of the provisions of the law and there was some discussion of various methods by which the desired results might be brought about. It was finally decided that the Commission would proceed to make an inspection of all lines subject to the provisions of the act and that following such inspection a list of the violations of the act would be furnished the owners of the lines inspected and a definite time fixed for the final elimination of all such infractions. It is expected that, pending the inspection, owners of overhead electric lines will endeavor to meet statute requirements and thus protect themselves against an inconvenient amount of work and expense immediately following the inspection.

This inspection has been begun and a number of lines have been inspected. One of the first systems to be inspected was that of Pacific Gas and Electric Company in the vicinity of San Mateo, Redwood City and San Jose, known by the company as its San Jose Division. This inspection brought to light a total of 13,973 infractions of the act, many of which were not even known to exist by the employees of the company. It should be particularly noted that large percentages of these infractions were created after the effective date of the original act. The deduction is obvious and leaves but little ground upon which to request any further delay in securing a full compliance with the law.

It was also found that construction exists which, while not in violation of the letter of the specific provisions of the act, causes unnecessary

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danger to workmen engaged in maintenance or construction work or to the public. By section 8 of the amended act the Railroad Commission is

> * * * instructed to inspect all work which is included in the provisions of this act, and to make such further additions or changes as said Commission may deem necessary for the purpose of safety to employees and the general public. * * *

Under this provision of the law the Railroad Commission will call upon Pacific Gas and Electric Company and as the inspection work proceeds, upon the owners of all overhead electric and signal lines to remedy hazardous construction as well as violations of the specific provisions of the law.

On the other hand instances were found of violations of the letter of the law, the elimination of which would require the expenditure of time and money with no practical gain in safety to either employees or the public. Where such infractions were created after the effective date of chapter 499, Statutes of 1911, the Commission can exercise no discretion but must require compliance with the law. In the case of construction existing at the time of the act it seems entirely proper to permit these minor infractions to continue until eliminated in the usual course of maintenance or reconstruction work, and the Commission can, under the law, authorize the necessary extensions of time. When work must be done on any pole, however, the entire structure should be brought into full compliance with the law.

In summing up the policy to be followed it may be said that the immediate elimination of all infractions created since 1911, of hazardous conditions, and of minor infractions on the same poles will be ordered following each inspection, while minor infractions in existence at the effective date of chapter 499 may be eliminated in the usual course of maintenance and reconstruction, provided they are not on the same poles as infractions that are to be removed immediately.

In making the inspection an employee of the company accompanied the Commission's inspector and a field report was furnished the company, a copy of which was retained by the Commission. As these copies bear the signatures of both the Commission's inspector and the company's representative, I believe that they can be considered an official notification of the existence, character and location of the individual infraction and hazardous conditions and such detail need not be repeated in this opinion or order. The company's representatives have received a great amount of instruction in the interpretations being placed upon the provisions of the act by the Commission and Pacific Gas and Electric Company is therefore in a position to proceed with the proper instruction of its employees and the elimination of the large number of infractions which undoubtedly exist on other parts of its system. Such work should be carried on concurrently with the work in the San Jose Division

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provided for in this order, and it appears reasonable that a complete compliance with the law in all divisions and districts of this company's system should be effected before December 31, 1923. The date of August 1, 1923, which is definitely provided in the order for compliance in the San Jose Division has been fixed after a careful consideration of the actual working time required for the removal of each infraction or hazardous condition as estimated in the field by the Commission's inspectors.

The order accompanying this opinion will deal specifically with the San Jose Division of Pacific Gas and Electric Company and supplemental orders directed to said company or to other utilities will be made as the inspection work proceeds and necessity arises.

ORDER.

The Railroad Commission, being charged by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, with the duty of seeing that all the provisions of that act are properly enforced and having made an inspection of the overhead electric lines of Pacific Gas and Electric Company in its San Jose Division, copies of the field reports of such inspection showing in detail the existence of 13,973 infractions of said act and other hazardous conditions having been furnished representatives of Pacific Gas and Electric Company, and the Commission being of the opinion that such infractions and hazardous conditions can reasonably be removed before August 1, 1923;

It is hereby ordered, that the time within which Pacific Gas and Electric Company may reconstruct its system of overhead electric and signal lines in its San Jose Division to comply with the requirements of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to August 1, 1923, provided, that as to certain infractions listed as "technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended indefinitely.

It is hereby further ordered, that before August 1, 1923, Pacific Gas and Electric Company shall complete such reconstruction of its overhead electric and signal lines in its San Jose Division as may be necessary to eliminate completely all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

It is hereby further ordered, that Pacific Gas and Electric Company instruct its agents and employees in the entire territory covered by its overhead lines, as to the requirements of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, and take adequate

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steps to eliminate completely infractions of said act upon its entire system by December 31, 1923.

Approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of October, 1922.

DECISION No. 11080.

IN THE MATTER OF THE APPLICATION OF JAMES W. SMITH FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE STAGE SERVICE BETWEEN AUKUM AND PLYMOUTH, CALIFORNIA.

Application No. 8141.

Decided October 7, 1922.

BY THE COMMISSION.

ORDER.

In this proceeding James W. Smith has applied for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between Aukum and Plymouth, serving Oleta as an intermediate point.

Applicant has secured the contract for the transportation of United States mail over the route herein sought to be operated and intends to operate in such service one Ford car, making one round trip per day, six days a week.

Inasmuch as it would appear that there are no other means of transportation between the points herein proposed to be served, we are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by James W. Smith of an automobile stage line as a common carrier of passengers between Aukum and Plymouth, serving Oleta as an intermediate point, and a certificate of public convenience and necessity be, and the same hereby is granted, subject to the following conditions:

1. Applicant herein shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file within a period of not to exceed twenty (20) days from date hereof tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those filed as an exhibit and attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

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2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this seventh day of October, 1922.

DECISION No. 11092.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE REASONABLENESS OF THE GAS RATES OF SAN JOAQUIN LIGHT AND POWER CORPORATION IN THE CITIES OF SELMA AND MERCED.

Case No. 1803.

Decided October 9, 1922.

Murray Bourne and *Lloyd Henley*, for San Joaquin Light and Power Corporation.

BY THE COMMISSION.

OPINION.

This is an investigation by the Commission, on its own motion, into the rates charged for gas service by San Joaquin Light and Power Corporation in the cities of Selma and Merced. The investigation was instituted by reason of a material decrease in the cost of fuel oil to San Joaquin Light and Power Corporation. Public hearings were held before Examiner Satterwhite in Selma on September 28th and in Merced on September 27, 1922, and the matter submitted.

Following a report made to it by its engineering department, the Commission submitted revised gas schedules to the company accompanied by an order to show cause why these schedules should not be made effective. At the hearings the company's representative stated that he considered the revised schedules to be just and reasonable.

The schedules set forth in the following order are designed to yield a fair return upon the rate base for each plant.

The cost of oil is a large item of expense and the price of oil is subject to frequent and sudden changes. In order that San Joaquin Light and Power Corporation and the people of Selma and Merced may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before the Commission, the schedules hereinafter set forth are designed to vary with the price of oil. The basic schedules are predicated upon an oil cost of $2 per barrel f. o. b. Merced and $1.97 per barrel f. o. b. Selma and these schedules then reduced to agree with the present prices of $1.30 per barrel at Merced and $1.27 per barrel at Selma.

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ORDER.

This Commission having instituted an investigation into the gas rates of San Joaquin Light and Power Corporation in Selma and Merced, an investigation having been made, hearings having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decisions No. 8042 and No. 8016, for Selma and Merced respectively, should be modified to conform with the schedules herein set forth, and that the rates herein set forth are just and reasonable rates to be charged for gas service by San Joaquin Light and Power Corporation in Selma and Merced.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that San Joaquin Light and Power Corporation file with the Commission, within ten (10) days of the date of this order, the following basic schedules of rates which are to be charged and collected for gas service rendered by it in the city of Selma and vicinity when the price paid for oil is $1.97 per barrel or over, f. o. b. Selma, and in the city of Merced and vicinity when the price paid for oil is $2 per barrel or over f. o. b. Merced:

SCHEDULE A.

General service (artificial gas).

Applicable to domestic and commercial service.

Territory.

Applicable in cities of Selma and Merced.

Rate.

First	500 cubic feet or less per meter per month	$1 20
Next	2,500 cubic feet per meter per month per M cubic feet	2 00
Next	5,000 cubic feet per meter per month per M cubic feet	1 70
Next	7,000 cubic feet per meter per month per M cubic feet	1 55
Over	15,000 cubic feet per meter per month per M cubic feet	1 35

The above rates are subject to decrease upon order of the Railroad Commission of the State of California on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.97 per barrel f. o. b. Selma and $2 per barrel f. o. b. Merced. The charge to be to the nearest 1 cent per 1000 cubic feet.

SCHEDULE C.

Hotel, restaurant and industrial service (artificial gas).

Applicable to hotel, restaurant and industrial service.

Territory.

Applicable in cities of Selma and Merced.

Rate.

First	20,000 cubic feet per meter per month per M cubic feet	$1 40
All over	20,000 cubic feet per meter per month per M cubic feet	1 20

Minimum bill, $25 per meter per month.

The above rates are subject to decrease upon order of the Railroad Commission of the State of California on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.97 per barrel f. o. b. Selma and $2 per barrel f. o. b. Merced. The charge to be to the nearest 1 cent per 1000 cubic feet.

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It is hereby ordered, that

1. The schedules above, designated as Schedule A and Schedule C, are hereby reduced 21 cents per 1000 cubic feet, effective for all regular meter readings taken on and after the fifteenth day of October, 1922.

2. In case of a reduction in the price paid for oil, San Joaquin Light and Power Corporation shall file within ten (10) days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

3. Should at any time an increase in the price paid for oil occur, San Joaquin Light and Power Corporation may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

4. San Joaquin Light and Power Corporation shall, within ten (10) days of the date of this order, file with the Commission schedules of rates to comply with section 1 of this order.

Dated at San Francisco, California, this ninth day of October, 1922.

DECISION No. 11093.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE REASONABLENESS OF THE RATES OF TURLOCK GAS COMPANY.

Case No. 1804.

Decided October 9, 1922.

A. A. Caldwell, for Turlock Gas Company.

BY THE COMMISSION.

OPINION.

This is an investigation by the Commission, on its own motion, into the rates charged for gas service by Turlock Gas Company in the city of Turlock and vicinity. The investigation was instituted by reason of a material decrease in the cost of fuel oil to Turlock Gas Company. A public hearing was held in Turlock before Examiner Satterwhite on September 27, 1922, and the matter submitted.

Following a report made to it by its engineering department, the Commission submitted revised gas schedules to the company accompanied by an order to show cause why these schedules should not be made effective. At the hearing the company's representative stated that he considered the revised schedules to be just and reasonable and requested only one minor revision which we find reasonable.

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The schedules set forth in the following order are designed to yield a return of 8 per cent upon the rate base found reasonable by the Commission herein, this being as follows:

Rate Base.

Fixed capital prior to December 31, 1912	$39,192 46
Additions and betterments January 1, 1913, to December 31, 1920	32,157 82
Additions and betterments year 1921	42,461 87
Operative additions and betterments to June 30, 1922	3,111 92
Fixed capital as of June 30, 1922	$116,924 07
Estimated average additions and betterments to September 30, 1923	1,856 06
Estimated average capital year ending September 30, 1923	$118,780 13
Average month's oil requirements	750 09
Materials and supplies	2,200 00
Working cash capital	3,100 00
Total rate base	$124,830 13

The result of a year's operation under these schedules as estimated and submitted in evidence by the Commission's staff is as follows:

Estimated Operations for Year Ending September 30, 1923.

Gas revenue	$47,000 00
Operating expense:	
Oil	$10,062 00
Other expense, exclusive of taxes	18,700 00
Taxes	5,000 00
Depreciation	3,000 00
Uncollectible bills	235 00
Total expense	$36,997 00
Net for return	$10,003 00

The cost of oil is the largest single item of expense to Turlock Gas Company and the price of oil is subject to frequent and sudden changes. In order that Turlock Gas Company and the people of Turlock may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before the Commission, the schedules hereinafter set forth are designed to vary with the price of oil. The basic schedules are predicated upon an oil cost of $1.65 per barrel f. o. b. Turlock and these schedules then reduced to agree with the present price of $1.29 per barrel.

ORDER.

This Commission having instituted an investigation into the gas rates of Turlock Gas Company, an investigation having been made, a hearing having been held, and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 7580 should be modified to conform with the schedules herein set forth, and that the rates herein set forth are just and reasonable rates to be charged for gas service by Turlock Gas Company.

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Basing its order on the foregoing findings of fact, and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Turlock Gas Company file with the Commission, within ten days of the date of this order, the following basic schedules of rates which are the rates to be charged and collected for gas service rendered by it in the city of Turlock and vicinity when the price paid for oil is $1.65 per barrel or over, f. o. b. Turlock:

SCHEDULE No. 1.

General service (artificial gas).

Territory.

Applicable to all territory served by company.

Rate.

		Gross	Net
First	500 cubic feet or less per meter per month	$1 30	$1 20
Next	2,500 cubic feet per meter per month per M cubic feet	2 10	2 00
Next	5,000 cubic feet per meter per month per M cubic feet	1 80	1 70
Next	7,000 cubic feet per meter per month per M cubic feet	----	1 50
Over	15,000 cubic feet per meter per month per M cubic feet	----	1 40

The above rates are subject to decrease on the basis of 2.7 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel f. o. b. Turlock upon order of the Railroad Commission of the State of California. Change to be to the nearest 1 cent per 1000 cubic feet.

Prompt payment discount.

The net rate is effective if the bill is paid at the office of the company on or before ten days from date bill is rendered. If the bill is not paid on or before said date the gross rate is effective.

SCHEDULE No. 2.

Commercial service.

This rate applies to restaurant service and also is an optional rate to Schedule No. 1.

Territory.

Applicable to all territory served by company.

Rate.

First	20,000 cubic feet per meter per month per M cubic feet	$1 15
All over	20,000 cubic feet per meter per month per M cubic feet	1 05

Minimum charge, $20 per meter per month.

The above rates are subject to decrease on the basis of 2.7 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel f. o. b. Turlock upon order of the Railroad Commission of the State of California. Change to be to the nearest 1 cent per 1000 cubic feet.

SCHEDULE No. 3.

Prepayment meters.

This rate applies to gas sold through prepayment meters.

Territory.

Applicable to all territory served by company.

Rate.

$2.25 per 1000 cubic feet.

It is hereby further ordered, that

1. The schedules above, designated as Schedule No. 1 and Schedule No. 2, are hereby reduced 10 cents per 1000 cubic feet effective for all

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regular meter readings taken on and after the fifteenth day of October, 1922.

2. In case of a reduction in the price paid for oil, Turlock Gas Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

3. Should at any time an increase in the price paid for oil occur, Turlock Gas Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

4. Turlock Gas Company shall, within ten days of the date of this order, file with the Commission schedules of rates to comply with section 1 of this order.

Dated at San Francisco, California, this ninth day of October, 1922.

DECISION No. 11094.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE REASONABLENESS OF THE RATES OF MADERA GAS COMPANY.

Case No. 1805.

Decided October 9, 1922.

George W. Kitchen, for Madera Gas Company.

BY THE COMMISSION.

OPINION.

This is an investigation by the Commission, on its own motion, into the rates charged for gas service by Madera Gas Company in the city of Madera and vicinity. The investigation was instituted by reason of a material decrease in the cost of fuel oil to Madera Gas Company. A public hearing was held in Madera before Examiner Satterwhite on September 28, 1922, and the matter submitted.

Following a report made to it by its engineering department, the Commission submitted revised gas schedules to the company accompanied by an order to show cause why these schedules snould not be made effective. At the hearing the company's representative stated that he considered the revised schedules to be just and reasonable.

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The schedule set forth in the following order is designed to yield a return of 8 per cent upon the rate base found reasonable by the Commission herein, this being as follows:

Rate Base.

Valuation January 1, 1920 (Decision No. 7578)	$74,672 88
Additions and betterments, 1920 and 1921	5,176 06
Operative additions and betterments to June 30, 1922	8,145 40
Valuation June 30, 1922	$87,994 34
Estimated average additions and betterments year ending September 30, 1923	10,000 00
Estimated average capital year ending September 30, 1923	$97,994 34
Average month's oil requirements	490 00
Materials and supplies	750 00
Working cash capital	2,000 00
Total rate base	$101,234 34

The result of a year's operation under this schedule as estimated and submitted in evidence by the Commission's staff is as follows:

Estimated Operations for Year Ending September 30, 1923.

Gas revenue	$31,600 00
Operating expense:	
Oil	$5,840 00
Other expense, exclusive of taxes	11,730 00
Taxes	3,000 00
Depreciation	2,600 00
Uncollectible bills	160 00
Total expense	$23,330 00
Net for return	$8,270 00

The cost of oil is a large item of expense to Madera Gas Company and the price of oil is subject to frequent and sudden changes. In order that Madera Gas Company and the people of Madera may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before the Commission, the schedule hereinafter set forth is designed to vary with the price of oil. The basic schedule is predicated upon an oil cost of $1.70 per barrel f. o. b. Madera and this schedule then reduced to agree with the present price of $1.20 per barrel.

ORDER.

This Commission having instituted an investigation into the gas rates of Madera Gas Company, an investigation having been made, a hearing having been held, and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 7578 should be modified to conform with the schedule herein set forth, and that the rates herein set forth are

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just and reasonable rates to be charged for gas service by Madera Gas Company.

Basing its order on the foregoing findings of fact, and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Madera Gas Company file with the Commission, within ten days of the date of this order, the following basic schedule of rates which are the rates to be charged and collected for gas service rendered by it in the city of Madera and vicinity when the price paid for oil is $1.70 per barrel or over f. o. b. Madera.

SCHEDULE OF RATES.

General service (artificial gas).

Territory.

Applicable to all territory served by company.

Rate.

	Gross	Net
First 500 cubic feet or less per meter per month	$1 35	$1 25
Next 2,500 cubic feet per meter per month per M cubic feet	2 10	2 00
Next 5,000 cubic feet per meter per month per M cubic feet	----	1 80
Next 7,000 cubic feet per meter per month per M cubic feet	----	1 70
Over 15,000 cubic feet per meter per month per M cubic feet	----	1 50

The above rates are subject to decrease on the basis of 2.9 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.70 per barrel, f. o. b. Madera upon order of the Railroad Commission of the State of California. Change to be to the nearest one cent per 1000 cubic feet.

Prompt payment discount.

The net rate is effective if the bill is paid at the office of the company on or before ten days from date bill is rendered. If the bill is not paid on or before said date the gross rate is effective.

It is hereby further ordered, that

1. The schedule above is hereby reduced 14 cents per 1000 cubic feet, effective for all regular meter readings taken on and after the fifteenth day of October, 1922.

2. In case of a reduction in the price paid for oil, Madera Gas Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedule herein set forth.

3. Should at any time an increase in the price paid for oil occur, Madera Gas Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedule herein set forth.

4. Madera Gas Company shall, within ten days of the date of this order, file with the Commission, a schedule of rates to comply with section 1 of this order.

Dated at San Francisco, California, this ninth day of October, 1922.

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DECISION No. 11095.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE REASONABLENESS OF THE GAS RATES OF RIVERBEND GAS AND WATER COMPANY.

Case No. 1806.

Decided October 9, 1922.

Chaffee Hall, for Riverbend Gas and Water Company.

BY THE COMMISSION.

OPINION.

This is an investigation by the Commission, on its own motion, into the rates charged for gas service by Riverbend Gas and Water Company in the towns of Dinuba, Reedley, Parlier, and Kingsburg, and in contiguous suburban territory. The investigation was instituted by reason of a material decrease in the cost of fuel oil to Riverbend Gas and Water Company. A public hearing was held in Dinuba on September 29, 1922, before Examiner Satterwhite and the matter submitted.

Following a report made to it by its engineering department, the Commission submitted a revised gas schedule to the company accompanied by an order to show cause why this schedule should not be made effective. At the hearing it was alleged by the company that this proposed schedule would, if made effective, reduce its revenue below that needed to afford a fair return upon its investment, and would make difficult or impossible the obtaining of the additional capital necessary to make needed improvements. Evidence was submitted to show that gas operations from 1915 to 1921, inclusive, had resulted in a net deficit of nearly $4,500, that no dividends had been paid upon the capital stock in the history of the utility, and that the stockholders had made an additional sacrifice by waiving claims to substantial funds advanced to the utility from time to time, together with the interest accrued thereon. It was contended that the Commission should recognize these past deficits in this proceeding and various methods were suggested whereby rates could be fixed which would permit the utility to recoup these losses in whole or in part.

The Commission can not agree with these contentions, Riverbend Gas and Water Company is serving a prosperous community and the costs of its operation should compare favorably with those of other utilities similarly situated. That this has not been the case, during those years in which large deficits were incurred, is admitted by the company's officials in comparing present with past efficiencies. In Decision No. 6500, dated July 16, 1919, and again in Decisions Nos. 7745 and 8281, dated June 19, and October 25, 1920, respectively, the lack of efficiency in this utility's operations has been discussed in detail and no

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evidence has been introduced in this proceeding to cause the Commission to change its views. Such losses as have been incurred in the past are properly to be borne by the stockholders and not by the public.

Recent operations show no such losses and the efficiency of gas production has been materially improved. The schedule set forth in the following order is somewhat modified from that originally proposed to make it conform with the blocking of the schedule now in effect. It will result in an average decrease in revenue of 16 cents per 1000 cubic feet sold, and is designed to yield a return of 8 per cent upon the rate base found reasonable by the Commission herein, this being as follows:

Rate Base.

Fixed capital January 1, 1920 (Decision No. 8281)	$207,318 00
Additions and betterments 1920 and 1921	62,590 14
Operative additions and betterments to June 30, 1922	26,556 55
Fixed capital as of June 30, 1922	$296,464 69
Estimated average additions and betterments for year ending September 30, 1923	22,000 00
Estimated average capital for year ending September 30, 1923	$318,464 69
Average month's oil requirements	1,450 00
Materials and supplies	9,000 00
Working cash capital	7,500 00
Total rate base	$336,414 69

The result of a year's operations under this schedule as estimated by the Commission's staff is as follows:

Estimated Operations for Year Ending September 30, 1923.

Gas revenue	$108,500 00
Operating expenses:	
Oil	$17,400 00
Other operating expenses, excluding taxes	43,660 00
Taxes	11,250 00
Depreciation	7,650 00
Uncollectible bills	540 00
Total expense	$80,500 00
Net for return	$28,000 00

The cost of oil is a large item in the expenses of Riverbend Gas and Water Company and the price of oil is subject to frequent and sudden changes. In order that the utility and its consumers may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before this Commission, the schedule hereinafter set forth is designed to vary with the price of oil. The basic schedule is predicated upon an oil cost of $1.65 per barrel f. o. b. Dinuba and this schedule then reduced to agree with the present price of $1.13 per barrel.

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ORDER.

This Commission having instituted an investigation into the gas rates of Riverbend Gas and Water Company, an investigation having been made, a hearing having been held, and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 8281 should be modified to conform with the schedule herein set forth and that the rates herein set forth are just and reasonable rates to be charged for gas service by Riverbend Gas and Water Company.

Basing its order upon the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Riverbend Gas and Water Company file with the Commission within ten days of the date of this order, the following basic schedule of rates, which are the rates to be charged and collected for gas service rendered by it in its entire territory when the price paid for oil is $1.65 per barrel or over, f. o. b. Dinuba.

SCHEDULE OF RATES.

General service (artificial gas).

Territory.

Applicable to all territory served by company.

Rates.	Gross	Net
First 400 cubic feet or less per meter per month	$1 35	$1 25
Next 3,000 cubic feet per meter per month per M cubic feet	2 30	2 20
Next 6,000 cubic feet per meter per month per M cubic feet	2 00	1 90
Next 15,000 cubic feet per meter per month per M cubic feet	----	1 60
Over 25,000 cubic feet per meter per month per M cubic feet	----	1 40

The above rates are subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.65 per barrel f. o. b. Dinuba upon order of the Railroad Commission of the State of California. Change to be to the nearest one cent per 1000 cubic feet.

Prompt payment discount.

The net rate is effective for all bills paid on or before the tenth day of the month following each meter reading date. Otherwise the gross rate is effective.

It is hereby further ordered, that

1. The schedule above is hereby reduced 16 cents per 1000 cubic feet, effective for all regular meter readings taken on and after the fifteenth day of October, 1922.

2. In case of a reduction in the price paid for oil, Riverbend Gas and Water Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedule herein set forth.

3. Should at any time an increase in the price paid for oil occur, Riverbend Gas and Water Company may, after filing affidavit of such

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increase and receiving a supplemental order from the Commission so authorizing, charge the increased rates as determined under the schedule herein set forth.

4. Riverbend Gas and Water Company shall, within ten days of the date of this order, file with the Commission a schedule of rates to comply with section 1 of this order.

Dated at San Francisco, California, this ninth day of October, 1922.

DECISION No. 11096.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE REASONABLENESS OF THE RATES OF HANFORD GAS AND POWER COMPANY.

Case No. 1807.

Decided October 9, 1922.

E. E. Bush, for Hanford Gas and Power Company.

BY THE COMMISSION.

OPINION.

This is an investigation by the Commission, on its own motion, into the rates charged for gas service by Hanford Gas and Power Company in the city of Hanford and vicinity. The investigation was instituted by reason of a material decrease in the cost of fuel oil to Hanford Gas and Power Company. A public hearing was held in Hanford before Examiner Satterwhite on September 29, 1922, and the matter submitted.

Following a report made to it by its engineering department, the Commission submitted revised gas schedules to the company accompanied by an order to show cause why these schedules should not be made effective. At the hearing, the company's representative stated that he considered the revised schedules to be just and reasonable.

The schedule set forth in the following order is designed to yield a return of 8 per cent upon the rate base found reasonable by the Commission herein, this being as follows:

Rate Base.

Valuation June 30, 1916 (Decision No. 3999)	$101,393 61
Additions and betterments to January 1, 1920	21,586 70
Additions and betterments 1920	19,004 91
Additions and betterments 1921	2,777 62
Additions and betterments to June 30, 1922	908 84
Valuation June 30, 1922	$145,671 68
Estimated average additions and betterments September 30, 1923	5,000 00
Estimated average capital, year ending September 30, 1923	$150,671 68
Average month's oil requirements	940 00
Materials and supplies	2,000 00
Working cash capital	4,500 00
Total rate base	$158,111 68

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The result of a year's operation under this schedule as estimated and submitted in evidence by the Commission's staff is as follows:

Estimated Operations for Year Ending September 30, 1923.

Gas revenue	$60,100 00
Operating expense:	
Oil	$11,280 00
Other expense exclusive of taxes	25,530 00
Taxes	6,000 00
Depreciation	4,320 00
Uncollectible bills	310 00
Total expense	$47,440 00
Net for return	$12,660 00

The cost of oil is a large item of expense to Hanford Gas and Power Company and the price of oil is subject to frequent and sudden changes. In order that Hanford Gas and Power Company and the people of Hanford may continue at all times to enjoy just and reasonable gas rates without the necessity of frequent proceedings before the Commission, the schedule hereinafter set forth is designed to vary with the price of oil. The basic schedule is predicated upon an oil cost of $1.50 per barrel f. o. b. Hanford and this schedule then reduced to agree with the present price of $1.10 per barrel.

ORDER.

This Commission having instituted an investigation into the gas rates of Hanford Gas and Power Company, an investigation having been made, a hearing having been held, and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 8120 should be modified to conform with the schedule herein set forth, and that the rates herein set forth are just and reasonable rates to be charged for gas service by Hanford Gas and Power Company.

Basing its order on the foregoing findings of fact, and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Hanford Gas and Power Company file with the Commission, within ten days of the date of this order, the following basic schedule of rates which are the rates to be charged and collected for gas service rendered by it in the city of Hanford and vicinity when the price paid for oil is $1.50 per barrel or over, f. o. b. Hanford.

SCHEDULE OF RATES.

General service (artificial gas).

Territory.

Applicable to all territory served by company.

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Rate.

	Gross	Net
First 500 cubic feet or less per meter per month	$1 35	$1 25
Next 2,500 cubic feet per meter per month per M cubic feet	2 10	2 00
Next 5,000 cubic feet per meter per month per M cubic feet	2 00	1 90
Next 7,000 cubic feet per meter per month per M cubic feet	----	1 70
Over 15,000 cubic feet per meter per month per M cubic feet	----	1 50

The above rates are subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the cost of oil below the price of $1.50 per barrel f. o. b. Hanford upon order of the Railroad Commission of the State of California. Change to be to the nearest one cent per 1000 cubic feet.

Prompt payment discount.

The net rate is effective if the bill is paid at the office of the company on or before ten days from date bill is rendered. If the bill is not paid on or before said date the gross rate is effective.

It is hereby further ordered, that

1. The schedule above is hereby reduced 12 cents per 1000 cubic feet, effective for all regular meter readings taken on and after the fifteenth day of October, 1922.

2. In case of a reduction in the price paid for oil, Hanford Gas and Power Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

3. Should at any time an increase in the price paid for oil occur, Hanford Gas and Power Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

4. Hanford Gas and Power Company shall, within ten days of the date of this order, file with the Commission schedules of rates to comply with section 1 of this order.

Dated at San Francisco, California, this ninth day of October, 1922.

DECISION No. 11097.

LILLIAN M. STEWART, H. C. HILL, F. M. WEST AND HENRY WEST

vs.

G. H. RICHARDSON.

Case No. 1741.

Decided October 11, 1922.

Clyde Bishop and *M. B. Wellington*, by *M. B. Wellington*, for Complainants.
Allen and Lyon, by *C. R. Allen*, for Defendant.

BY THE COMMISSION.

OPINION.

Complainants herein are engaged in the business of ranching near Fullerton, Orange County, California. They are owners of land

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adjacent to, or near, a certain ranch owned and operated by defendant, G. H. Richardson. Defendant is the owner of a water system, deriving its supply from a well or wells located upon his land, from which system complainants have obtained water for irrigation purposes, for a period of approximately eight years. Certain complainants have likewise obtained water from said defendant for domestic purposes also for a period of approximately eight years.

In their complaint, these complainants allege that said defendant now refuses to continue such service of water to them upon their premises unless and until they shall sign an agreement with said defendant waiving their right to be supplied with water except at defendant's discretion; that they have refused to sign such an agreement; that by reason of such refusal they have been deprived of the said water by defendant, and that their lands have been, and will be, damaged because of the refusal of defendant to deliver such water.

In his answer, the defendant denies that the Railroad Commission of the State of California possesses jurisdiction to hear and determine this case on the ground that the defendant is not a public utility according to the laws of the State of California; and defendant alleges that he has never furnished to complainants anything but surplus water from his pumping plant, and that the complainants and other persons receiving water from the defendant secured said water upon the understanding that it was only surplus water. The answer admits that there is no other water supply available to said complainants at the present time.

A public hearing in this proceeding was held before Examiner Williams at Fullerton, California. The evidence there adduced showed that defendant is the owner of 45.80 acres of land, planted largely to citrus fruits. When he first began furnishing water to complainants or their predecessors, he had a small pumping plant on his property, producing approximately thirty-five inches of water. Later, he sank a new well, installed more powerful pumps and secured a flow of approximately seventy-five inches. He continued to supply the persons formerly supplied by him, and at various times undertook to supply other consumers. The evidence showed that approximately ninety acres, in addition to his own 45.80 acres, have been irrigated from this well, and that approximateiy 45 acres of this 90 are set out to citrus and other fruits and walnuts. Defendant did not single out favored individuals, but served all who applied, within the area conveniently served by his system. The evidence showed that defendant never refused to sell water as requested until after a difference of opinion with one of the present complainants. It was then that defendant demanded of these consumers that they execute the new and drastic agreement above mentioned. On their refusal so to do, defendant shut off the water. (At the hearing it was stipulated that service of water should be resumed

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by defendant pending decision upon the matter by the Commission, payment to be made at the rates charged by defendant just prior to the shutting off of the water.)

It further appeared at the hearing that, with the exception of the case of one consumer (not one of the complainants herein), no other present source of water supply exists or is available to these persons. Their use of water for irrigation has, in most instances, averaged once a month per consumer during the irrigation season, and the evidence showed that defendant's pump has not been run more than one-half of the daylight hours, even during the heaviest irrigation period. While defendant declared that he had only held himself out to sell water to these persons when he did not himself need it, he, nevertheless, admitted upon cross-examination that, other than by making them wait their turn, he never refused to supply any of the complainants with irrigation water until the occasion when he shut off the water completely. Defendant makes not claim that he no longer possesses more water than is needed for his own ranch, and therefore, assuming that he held himself out to sell only "surplus water," he still possesses a surplus more than adequate to supply the present consumers.

It therefore appears clear to the Commission that the defendant is, and has, for some time past, been operating a water system which must be classed as a public utility. We have carefully considered the authorities cited by counsel for the defendant, and have arrived at the conclusion that the present case is clearly distinguishable from them. In the case of *Story* vs. *Richardson,* 61 Cal. Dec. 785, the plant was built "primarily and preeminently" for supplying tenants of plaintiff's own building. In the present case it would seem that defendant, while already serving some consumers, installed a plant considerably larger than he would need for his own ranch, and that thereafter he understook to supply other consumers. We think this is clear evidence of intent to serve these consumers, and a dedication of plant and water to this public use, at least, so long as defendant should possess a surplus of water over and above his own needs, though we express no opinion at this time upon this latter point.

In arriving at this conclusion, we have sought to apply to the present situation the test laid down by the Supreme Court of this state in the case of *Van Hoosear* vs. *Railroad Commission,* 184 Cal. 553; 194 Pac. 1003, in which the court, speaking through Mr. Justice Olney, said p. 554):

> The test to be applied is whether or not the petitioner held himself out, expressly or impliedly, as engaged in the business of supplying water to the public as a class, not necessarily to all of the public, but to any limited portion of it, such portion, for example, as could be served by his system as contradistinguished from his holding

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himself out as serving or ready to serve only particular individuals, either as a matter of accommodation or for other reasons peculiar and particular to them.

(*Thayer* vs. *California Dev. Co.*, 164 Cal. 117 (128 Pac. 21); *Pinney, etc. Co.* vs. *Los Angeles Gas, etc. Co.*, 168 Cal. 12 (Am. Cas. 1915D, 471, L. R. A. 1915C, 282) (141 Pac. 620); *Associated Pipe Line Co.* vs. *Railroad Commission*, 176 Cal. 518 (L. R. A. 1918C, 849) (169 Pac. 62); *Allen* vs. *Railroad Commission*, 179 Cal. 68 (8 A. L. R. 249) (175 Pac. 466).)

We have also considered the discussion relative to general policy to which the Supreme Court gave expression in the case of *Van Hoosear* vs. *Railroad Commission, supra,* and have arrived at the conclusion that, as in that case, the particular circumstances here involved make it impossible for us to conclude that the plant in question is other than a public utility.

At the hearing, evidence was adduced showing the original cost of defendant's plant, the cost of operation thereof and the revenue received. From this evidence it appears that defendant has received from the amounts charged by him a fair and reasonable return upon the value of his plant and services.

The order will, therefore, provide for the continuance of service at the rate heretofore charged, which said rate shall be filed with the Commission, and shall constitute the legal rate until changed in the manner provided by law.

ORDER.

Complaint having been made to the Railroad Commission, as entitled above, a public hearing having been held, and the matter having been submitted and being now ready for decision;

It is hereby ordered, that G. H. Richardson, the defendant herein, be and he is hereby directed to continue water service to the complainants named herein, and to such other consumers as he has heretofore served with water, either for irrigation or domestic purposes.

It is further ordered, that the said G. H. Richardson file with this Commission forthwith the schedule of rates formerly in effect for said water service, as a present schedule of rates for such service.

Dated at San Francisco, California, this eleventh day of October, 1922.

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DECISION No. 11099.

IN THE MATTER OF THE APPLICATION OF DEL MONTE LIGHT AND POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE RIGHTS OR PRIVILEGES UNDER FRANCHISE AWARDED TO IT BY THE BOARD OF SUPERVISORS OF MONTEREY COUNTY.

Application No. 8095.

Decided October 11, 1922.

Carmel Martin, Sloss, Ackerman and Bradley, for Del Monte Light and Power Company.

James F. Pollard, for Coast Valleys Gas and Electric Company.

BENEDICT, *Commissioner*.

OPINION ON REHEARING.

This Commission, on September 7, 1922, rendered its Decision No. 10962 in the matter of the above entitled proceeding, denying the request of Del Monte Light and Power Company for a certificate of public convenience and necessity to exercise certain rights and privileges under franchise awarded to it by the board of supervisors of Monterey County.

Del Monte Light and Power Company, on September 19, 1922, filed a petition for rehearing in the above entitled proceeding, alleging that the Commission's decision was unjust and unreasonable for various reasons as set forth therein.

This Commission, on September 28, 1922, issued an order granting the petition of applicant for rehearing and on October 3, 1922, a hearing was held upon the petition for rehearing, at which time additional evidence was submitted.

From all the evidence introduced in this entire proceeding, it is clear that Del Monte Light and Power Company should not be granted a certificate to serve electricity in that portion of Monterey County east of Hotel Del Monte, known as East Monterey and Seaside, as requested.

Prior to 1921, Del Monte Light and Power Company served no consumers east of Pacific Grove, its business being entirely limited to Pebble Beach and a small portion of Pacific Grove where three or four consumers were served. The main portion of Pacific Grove and all of Monterey is served by the Coast Valleys Gas and Electric Company. Del Monte Light and Power Company purchases its electric energy from Coast Valleys Gas and Electric Company and the territory which it applies to serve is isolated from the rest of its business and there appears no saving to be obtained to the public or any improvement of service over that which can be rendered by Coast Valleys Gas and Electric Company. The petition for certificate of public convenience and necessity of Del Monte Light and Power Company should be denied.

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ORDER.

Del Monte Light and Power Company having petitioned for rehearing in the above entitled matter, rehearing having been held and the matter submitted and now being ready for decision;

It is hereby ordered, that

1. The application of Del Monte Light and Power Company be and the same is hereby denied.

2. Del Monte Light and Power Company continue service to those consumers now served in Seaside and vicinity until such time as service is rendered to those consumers by Coast Valleys Gas and Electric Company as directed in Decision No. 11100, in Case No. 1802.

The foregoing is approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of October, 1922.

DECISION No. 11100.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF REQUIRING COAST VALLEYS GAS AND ELECTRIC COMPANY TO EXTEND ITS ELECTRIC SYSTEM TO SERVE EAST MONTEREY AND SEASIDE.

Case No. 1802.

Decided October 11, 1922.

James F. Pollard, for Coast Valleys Gas and Electric Company.
F. A. Edwards, for East Monterey Improvement Association.
J. L. D. Roberts and *W. W. Mills,* for proposed Seaside users.

BY THE COMMISSION.

OPINION.

This is a proceeding instituted on the Commission's own motion to determine the reasonableness of requiring Coast Valleys Gas and Electric Company to build and construct an extension to its electric distributing system to serve a portion of Monterey County, known as Seaside and East Monterey. A hearing in this matter was held before Examiner Eddy at Monterey on September 26, 1922, at which time evidence was received and the matter submitted.

In Application No. 8095 Del Monte Light and Power Company requested this Commission to grant it a certificate of public convenience and necessity in order that it might render electric service to certain consumers in and adjacent to Seaside and East Monterey. In Decision No. 10962 in that application this Commission denied the request of Del Monte Light and Power Company and at the same time recommended that this proceeding be instituted and suggested that Coast

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Valleys Gas and Electric Company either acquire the existing property of Del Monte Light and Power Company extending from Hotel Del Monte to Seaside used for the rendering of service to certain consumers now being served in and adjacent to Seaside, or extend its own system to serve these consumers.

Del Monte Light and Power Company was granted a rehearing in this matter and this Commission in its Decision No. 11099 again denied its request for a certificate of public convenience and necessity.

Coast Valleys Gas and Electric Company, through Mr. James F. Pollard, introduced evidence to the effect that Coast Valleys Gas and Electric Company should not be required to make this extension for the reasons that it would not have during the coming year sufficient available cash to make this extension, providing other additions to its system now contemplated were to be made; that applicants for service in this territory would not be deprived of service as Del Monte Light and Power Company could render this service; that it is in the interest of economy that Del Monte Light and Power Company make this extension due to the initial saving in the cost of construction in this particular extension by Del Monte Light and Power Company and that if Coast Valleys Gas and Electric Company is required to make this extension it would amount to confiscation of its property under the present rates which it charges for electric service.

Coast Valleys Gas and Electric Company has the right to render service within the territory where service is requested and it is its duty so to do. At present there are applications for service from some thirty consumers desiring service for lighting, heating and power purposes. This territory is devoted largely to poultry farming and agriculture and is a rapidly growing community and with electric service should grow even at a faster rate than at present. To build and construct the extension to render service to those parties not now served by Del Monte Light and Power Company now applying, if extended from the line of Del Monte Light and Power Company, terminating at Seaside, is estimated to cost approximately $3,935, and if extended from the present lines of Coast Valleys Gas and Electric Company approximately $4,860.

Del Monte Light and Power Company is at present operating an electric line from Hotel Del Monte to Seaside, at which latter point it serves some twenty consumers. This line was extended into this territory by Del Monte Light and Power Company without franchise or certificate. In Decision No. 11099 in Application No. 8095, this Commission found that Del Monte Light and Power Company had at no time a right to serve in the vicinity of Seaside and it was suggested that Coast Valleys Gas and Electric Company either acquire the facilities and equipment now owned and operated by Del Monte Light and Power Company

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extending from Hotel Del Monte to Seaside or construct an extension to render service to these consumers.

Under the present effective rules and regulations governing the construction and installation of extensions by Coast Valleys Gas and Electric Company, the applicants now requesting service would be required to advance to the company a portion of the cost of the extension. These rules also provide that in exceptional cases which may appear to warrant a departure from the regular rules the matter at issue shall be subject to the jurisdiction of this Commission and this particular extension falls in this class for the Commission's consideration.

In view of the peculiar conditions surrounding this case, the recent growth of this community and the prospects for future business this Commission is of the opinion that Coast Valleys Gas and Electric Company should make this extension entirely at its own expense and that the applicants for service should be required to advance no portion of the cost of the extension facilities or equipment necessary to render the service applied for.

ORDER.

The Railroad Commission having instituted a proceeding on its own motion for the determination of the reasonableness of requiring Coast Valleys Gas and Electric Company to render electric service to certain applicants in a portion of Monterey County known as Seaside and East Monterey, a hearing having been held and the matter being submitted and now being ready for decision:

The Railroad Commission hereby finds as a fact that it is reasonable to require Coast Valleys Gas and Electric Company to install and construct an extension for the purpose of rendering electric service to those applicants requesting the same in and adjacent to Seaside and East Monterey located in Monterey County not now receiving electric service and to take such steps necessary to render service to those consumers in and adjacent to Seaside now being served by Del Monte Light and Power Company.

Basing its order on the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that

(1) Coast Valleys Gas and Electric Company, at its sole expense, build and construct an extension and install all necessary facilities and equipment to render electric service to those applicants now requesting such service located in and adjacent to Seaside and East Monterey and specifically referred to in Informal Complaint 23449 before this Commission.

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(2) Coast Valleys Gas and Electric Company commence work on the construction of above extension prior to November 1, 1922, and complete the same and render service on or before December 1, 1922.

It is hereby further ordered, that Coast Valleys Gas and Electric Company, on or before December 1, 1922, serve all those consumers now receiving electric service in and adjacent to Seaside either by extension from its own lines or by acquiring lines now operated by Del Monte Light and Power Company used in serving this territory.

The effective date of this order shall be November 1, 1922.

Dated at San Francisco, California, this eleventh day of October, 1922.

DECISION No. 11101.

G. A. REICHMAN, OWNER OF THE ETNA-FORT JONES-YREKA STAGE LINE OF FORT JONES, CALIFORNIA,

vs.

HUDSON REYNOLDS, ED SHEFFIELD, THE ETNA MEAT COMPANY AND ALBERT VACENT.

Case No. 1792.

Decided October 14, 1922.

R. S. Taylor, for Complainant.
J. McNamara, for Defendants.

BY THE COMMISSION.

OPINION.

G. A. Reichman, doing business under the name of Etna-Fort Jones-Yreka Stage Line, complains of defendants, and each of them, alleging that said defendants have been operating automobile trucks for compensation between fixed termini in the County of Siskiyou, and in connection with such operation have made trips over the route, or portions of the route, operated by complainant under the jurisdiction of the Commission; that said defendants have no right or authority so to operate and that such operation is in violation of the provisions of chapter 213, Statutes of 1917, in that no certificate of public convenience and necessity has been issued by this Commission authorizing the operation of automobile trucks for the carriage of property for compensation; that by reason of the alleged operation the complainant has suffered a material reduction in revenue from the operation of his authorized freight line, and that unless protection can be furnished against illegal operation complainant will be obliged to curtail the service he now renders to the public. Complainant prays that defendants be required to show cause why they should not be restrained from operating their automobile trucks.

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All of the defendants filed informal answers, each denying the material allegations of the complaint.

A public hearing on this matter was conducted by Examiner Handford at Yreka, the matter was duly submitted and is now ready for decision.

G. A. Reichman, complainant herein, testified that his freight and passenger line from Yreka to Etna Mills was established prior to the enactment of chapter 213, Statutes of 1917, and that following the passage of such enactment his schedules and tariffs were duly filed with this Commission and operation has been continuously conducted under and in accordance with the requirements of the statutory law and the regulations of this Commission. His investment in horses, trucks and automobiles used in the conduct of his business approximates from $12,000 to $15,000 and he claims to be able to care for all business offering for movement over his route. It is his estimate that one-half of the hauling over his route is now being done by unauthorized carriers, although no complaint is made as to any infringement of his operative right by the carriage of passengers, the complaint being directed entirely as to freight. In substantiation of his complaint as to defendant Sheffield, he testified that he had observed such defendant hauling freight between Yreka and Fort Jones and Greenview, trucks having been observed engaged in such hauling two or three times a week. Specific dates were mentioned upon which defendant Sheffield was alleged to have hauled consignments over the route of complainant. As to the operation of defendant Etna Meat Company, this witness testified that such defendant, in connection with the hauling of its own shipments, would haul on the return trip any freight obtainable and that such freight was hauled over the route of complainant excepting for a distance of about two miles from Yreka. No complaint was made as to such defendant hauling freight to or from Yreka. As to defendant Vacent, this witness testified that hauling was done in a 3½ ton truck between Yreka and Fort Jones, all over the direct route of complainant, although recently this defendant had been engaged in contract hauling and had not been noticed to be competing for business, the last date upon which the hauling of competitive business was noticed being on June 2, 1922. As to defendant Reynolds, this witness testified that such defendant hauled freight whenever he could get either a load or part of a load between Yreka and Fort Jones; that a few trips were made during the spring of 1922; and that on August 22, 1922, the practice of hauling regularly was commenced and has still continued, grain being the commodity principally handled, and from the vicinity of Fort Jones to Montague, thus passing over a major portion of complainant's authorized route.

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E. Sheffield, defendant, testified that he resided at Greenview, owned a truck and operated a service station at such point. He hauls some freight for compensation, partly under contract and other freight if same be offered to him. This witness testified that he began operating in 1908 in the transportation to the Franco-American Hotel in Yreka of meat, poultry and vegetables which he either raised at Greenview or purchased and in either case sold to the hotel, having a verbal contract to supply such commodities to the hotel. He claims not to make daily trips and to have hauled ordinary freight for 50 cents per cwt. and heavy and bulky freight for $1.25 per cwt., and to have secured a truck in 1915 which replaced the method of hauling previously done by team. Witness has never filed tariffs and schedules with the Railroad Commission, although he claims to have continuously rendered the character of service as above described since its original commencement in 1908.

Albert Vacent, defendant, testified that he resided at Fort Jones and that he has hauled no freight from Yreka since June, 1922. He is at present hauling lumber, under contract, from a mill at or near Fort Jones to Montague, such hauling necessitating the use of a portion of the route served by complainant. No charge is made for the back haul from Montague to the saw mill, such back haul consisting of supplies for the mill. This witness has made a practice of hauling farm and ranch supplies such as wheat, cement, pipe, hogs and sheep, principally on the basis of renting his trucks on a daily basis, charging a rate of $35 per day for a large truck and $15 per day for a small truck. He has hauled some small shipments from Yreka to Fort Jones, charging a rate of 35 cents per cwt. Witness began hauling in the fall of 1917, and holds himself out to go anywhere and at any time, for the truck load rates, based on the size of the truck used.

M. C. Lauthan, one of the partners operating under the fictitious name of Etna Meat and Ice Company (such company herein named as defendant Etna Meat Company), testified that his concern, located at Etna, shipped meat to Gazelle and Weed and other points in its own equipment and had hauled on the return trip to Etna and to Fort Jones, principally from Weed. Sugar, salt, hogs and other supplies have been so transported, it being the practice for carload lots of supplies to arrive at Southern Pacific stations and be distributed in smaller quantities to various communities whose merchants had combined in the purchase of carload quantities. In connection with such operation, a portion of the route of complainant has been used, in fact practically all the route except for a distance of two miles out of Yreka. Three trucks are owned by this defendant.

Hudson G. Reynolds, defendant, testified that he was a farmer, residing at Fort Jones; that he owned an auto truck and had hauled freight

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for others. Gasoline has been hauled by this defendant from Grenada to Fort Jones; salt to Fort Jones; wheat, Fort Jones to Montague; and recently blacksmith coal. This witness rents his truck on a basis of $15 per day. In the hauling of some of these commodities, this defendant would require to use a considerable portion of the route of complainant.

The situation disclosed by the evidence in this proceeding is the transportation problem confronting communities in Siskiyou County which are remote from railroad service and whose products require to be transported to railroad points and to be delivered from such railroad points. The complainant herein possesses an operative right between the towns of Yreka and Etna Mills, serving the community of Fort Jones as an intermediate point. Defendant E. Sheffield possesses an operative right between Greenview and Yreka by reason of operation having been commenced prior to May 1, 1917, the effective date of the legislative enactment known as chapter 213, Statutes of 1917, upon which operation in good faith did not require a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. Defendant Sheffield has not perfected his operative right by filing the necessary time and rate schedules and complying with the other regulations of this Commission, and such filings should immediately be made by this defendant as regards operation between Greenview and Yreka and any intermediate points which were being served on May 1, 1917. No right or expansion of service beyond that which was being given by this defendant on May 1, 1917, can now be claimed or covered by tariffs or rate schedules, as any expansion of route or enlargement of business beyond that offered to the public on such date is unauthorized and illegal operation until such time as a certificate of public convenience and necessity will have been obtained from this Commission.

Defendants Vacent, Reynolds and Etna Meat Company have no operative rights and no authority to transport property for compensation over the route between Yreka and Etna Mills and intermediate points, and such operation, either in truck load lots or for smaller consignments, should be immediately discontinued by such defendants, and by each of them. The hauling of property for compensation between Fort Jones and Etna Mills and stations on the main line of the Southern Pacific Company such as Gazelle, Weed and Montague, does not appear to be of sufficient frequency to justify the conclusion that the defendants complained of are engaged "in the business of transporting * * * property, for compensation, over any public highway in this state between fixed termini or over a regular route" as set forth in section 1, paragraph (*c*) of chapter 213, Statutes of 1917, and effective amendments thereto. The "for hire" service as operated by the defendants Vacent and Reynolds, on the basis of going to any desired destina-

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tion and in so far as such service is not rendered over a regular route or between fixed termini, and is based on a fixed daily compensation for the size of truck used, does not bring such defendants within the jurisdiction of this Commission as same is conferred by the statutory enactment, but no such operation should be continued serving the points comprised, on the authorized route of complainant between Etna Mills and Yreka and including the intermediate point of Fort Jones.

After careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find the following facts:

I. That the operation conducted by defendant E. Sheffield, as a common carrier of property for compensation between Greenview and Yreka and any intermediate points which may have been served prior to and including May 1, 1917, is operation subject to the jurisdiction of the Railroad Commission by the provisions of chapter 213, Statutes of 1917, and amendments thereto; and that defendant E. Sheffield, by reason of continuous operation since May 1, 1917, is entitled to continue such operation by the proper filing of tariffs and time schedules in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

II. That the operation conducted by the partnership operating under the name and style of Etna Meat and Ice Co., Ltd., is not operation of sufficient regularity to be reasonably considered "business of transportation of persons or property, or as a common carrier, * * * between fixed termini or over a regular route" as such qualification appears in section 1, paragraph (c) of chapter 213, Statutes of 1917, and effective amendments thereto. That no showing has been made as to operation by this defendant between Yreka and other points served by the authorized line of complainant herein, all operation heretofore conducted having been over such portion of the route of complainant as was necessary to reach the communities at Etna Mills and Fort Jones.

III. That the operation of "for hire" service as heretofore conducted by defendants Albert Vacent and Hudson G. Reynolds, in so far as such operation refers to hauling which has been made on the basis of hiring an entire truck on the basis of a daily rate, and to points other than those served by the line of complainant, is operation not within the jurisdiction of this Commission as conferred by the statutory law, there being no showing in this proceeding that such operation is of sufficient regularity to be reasonably considered "business of transportation of persons or property, or as a common carrier, * * * between fixed termini or over a regular route" as such qualification appears in section 1, paragraph (c) of chapter 213, Statutes of 1917, and effective amendments thereto. Operation in the carriage of small consignments of

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freight to or from Yreka when originating at or destined to points served by the authorized line of complainant herein, such shipments being transported at a rate per cwt., is in violation of the statutory enactment and the subsequent regulations of this Commission and should be at once discontinued.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered:

I. That defendant E. Sheffield, within thirty days from the date of service of this order, file with the Railroad Commission tariffs and schedules in accordance with the provisions of General Order No. 51 and other regulations of this Commission, covering the operation of an automobile freight line between Greenview and Yreka; such tariffs and schedules to cover only such operation as actually given as of May 1, 1917.

II. That defendants Albert Vacent and Hudson G. Reynolds be and they are hereby ordered to cease the operation of any automobile trucks in the carriage of freight between Yreka and Etna Mills and intermediate points.

III. That this complaint, in so far as same refers to the partnership operating under the name and style of Etna Meat and Ice Co., Ltd. (referred to in the complaint as "The Etna Meat Company"), be and the same hereby is dismissed.

Dated at San Francisco, California, this fourteenth day of October, 1922.

DECISION No. 11102.

IN THE MATTER OF THE APPLICATION OF EARL F. BLUBAUGH, (LOS ANGELES AND WEST SIDE TRANSPORTATION COMPANY), FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE BETWEEN LOS ANGELES HARBOR (SAN PEDRO AND WILMINGTON) AND MARICOPA, TAFT, FELLOWS, McKITTRICK AND WEST SIDE OIL FIELDS.

Application No. 8100.

IN THE MATTER OF THE APPLICATION OF EARL F. BLUBAUGH, OWNER OF LOS ANGELES AND WEST SIDE TRANSPORTATION COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE BETWEEN TAFT, MARICOPA, FELLOWS, McKITTRICK, WEST SIDE OIL FIELDS, AND OIL FIELDS LOCATED ADJACENT TO HUNT-

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INGTON BEACH, SEAL BEACH, LONG BEACH, REDONDO, BREA, SANTA FE SPRINGS, WHITTIER, MONTEBELLO, ETC.

Application No. 8136.
Decided October 14, 1922.

E. F. Blubaugh, Applicant, *in propria persona*.
L. N. Bradshaw, for Southern Pacific Railway, Protestant.
H. N. Blair, for Hodge Transportation System and Los Angeles and San Pedro Transportation Company, Protestants.
E. T. Lucey and *G. E. Harris*, for Atchison, Topeka and Santa Fe Railway, Protestant.
C. W. Cornell, for Pacific Electric Railway, Protestant.
BY THE COMMISSION.

OPINION.

Applicant seeks a certificate of public convenience and necessity to operate through freight service, in quantities of not less than six tons between certain oil field points in Kern County and Los Angeles Harbor; and, also, between the same points in Kern County to "Huntington Beach, Seal Beach, Long Beach, Redondo, Brea, Santa Fe Springs, Whittier, Montebello, etc." in loads of not less than six tons.

A public hearing was held by Examiner Williams at Los Angeles.

Applicant at present operates under the name of the Los Angeles and West Side Transportation Company, a general freight service between the Kern County West Side oil fields and Los Angeles. In Application No. 8100, he seeks to extend this service whenever a minimum of six tons is available, to Los Angeles Harbor points, and in Application No. 8136, to extend it to all other points. He expects to use his present equipment and perform service at will and without schedule. The rates proposed are all from the southern points to Los Angeles and are additional to applicant's rates from Los Angeles to Kern County points. In effect, applicant means to ask the privilege of extending his service, on demand, and only when six tons are tendered, to any of the points south and east of Los Angeles whenever shipments to or from the Kern County points are available, but without applicant being obligated to devote any special equipment, or observe any regularity of operation.

The testimony offered by applicant related to the proposed extension from Los Angeles to harbor points (Application No. 8100), and practically no proof was produced as to a need for service to the other points named (Application No. 8136)—so little, in fact, that this application may be regarded as not being worth further consideration in this opinion, and its denial justified.

Proof as to the service to the harbor was given by the officers and traffic managers of several business houses shipping oil well supplies. Rates, with all of them, were not the basis of a desire for additional

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service, although applicant offered a lower rate ($1.50 a ton) than any auto carrier now operating between the termini chosen. The demand was more for a through service, without transfer, from the shipside at the harbor to the oil fields of Kern County. With such a through service, it was testified, shipments could be billed through from Atlantic seaboard to the consignee, and delivery thus expedited. The testimony was not convincing, however, that much tonnage would be so moved, or frequently, or that it would be made available to the applicant, or to other authorized carriers. Analysis of the testimony is not helpful in assuring that the operation proposed by applicant would be little more than a convenience to some shippers, but was not, in any sense, a public necessity.

If this were doubtful from applicant's testimony, the showing of protestants is convincing of this finding. There are now three rail lines from Los Angeles, capable of handling large shipments with reasonable expedition. Two protestants, the Los Angeles and San Pedro Transportation Company and the Hodge Transportation Company have ample auto facilities from Los Angeles Harbor to Los Angeles that are not being used by shippers, some of whom were witnesses for applicant, whose large tonnage is hauled by contract. The testimony as to adequacy of facilities was not disputed, but witnesses said the objection was to the transfer from one line to another. The two auto carriers protesting gave assurance that any shipments could be transferred from their trucks to those of applicant, or any other carrier, immediately upon arrival at their terminals and so stipulated with applicant, and also that each would cooperate in rapid transportation at through joint rates.

From these facts, it is evident that extension of applicant's service to Los Angeles Harbor, or other points, is not necessary and that the application should be denied.

ORDER.

Earl F. Blubaugh (Los Angeles and West Side Transportation Company) having applied to the Railroad Commission of the State of California, for a certificate of public convenience and necessity to operate auto freight service between Los Angeles Harbor (San Pedro) and Wilmington, and Maricopa, Taft, Fellows, McKittrick and West Side oil fields, and also to operate auto freight service between Taft, Maricopa, Fellows, McKittrick and West Side oil fields and oil fields located adjacent to Huntington Beach, Seal Beach, Long Beach, Redondo, Brea, Santa Fe Springs, Whittier, Montebello, etc., a public hearing having been held, the matter having been duly submitted and now being ready for decision:

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The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the service as proposed by applicant, and that the applications, and each of them, be and the same hereby are denied.

Dated at San Francisco, California, this fourteenth day of October, 1922.

Decision No. 11103.

IN THE MATTER OF THE APPLICATION OF MARK R. MONZIE AND SAMUEL G. TETER, COPARTNERS, OPERATING UNDER THE FICTITIOUS NAME OF OWNERS TRANSPORTATION COMPANY, TO SELL, AND H. E. HOLMES AND PHILBROOK W. HOLMES, COPARTNERS, TO PURCHASE, AN AUTOMOTIVE FREIGHT LINE OPERATING BETWEEN SAN FRANCISCO-SAN JOSE AND INTERMEDIATE POINTS; BETWEEN SAN JOSE AND CAMPBELL AND BETWEEN SAN JOSE AND AGNEW.

Application No. 8239.

IN THE MATTER OF THE INVESTIGATION, ON THIS COMMISSION'S OWN MOTION, OF THE OPERATIVE RIGHTS HELD BY MARK R. MONZIE AND SAMUEL G. TETER, COPARTNERS, UNDER THE FICTITIOUS NAME OF OWNERS TRANSPORTATION COMPANY, TO OPERATE AUTOMOTIVE FREIGHT SERVICE BETWEEN SAN FRANCISCO-SAN JOSE AND INTERMEDIATE POINTS; SAN JOSE AND CAMPBELL, AND SAN JOSE AND AGNEW.

Case No. 1810.

Decided October 14, 1922.

TRANSFER—AUTO TRUCKS—CONSENT OF PARTNERS.—The Commission holds that to authorize a transfer of property belonging to a copartnership without the consent of both partners thereto would be in violation of section 2430 of the Civil Code of California.

TRANSFER—RIGHT OF.—An individual member of a copartnership, to which a certificate has been granted, is held not to have the right to assign it to a third party.

Louis V. Crowley, for Applicants in Application No. 8239.

Don W. Richards, for Creditors of Samuel G. Teter.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

Theo. Hart and *James Moore, Jr.*, for Western Pacific Railroad Company, Protestant.

James A. McCurdy, for Highway Transport Company, Protestant.

Walter H. Robinson, for Pioneer-Gibson Express, Protestant.

Samuel G. Teter, in propria persona, in Case No. 1810.

BY THE COMMISSION.

OPINION.

The two proceedings entitled as above were, by stipulation of counsel, consolidated for hearing and decision. The evidence and testimony submitted will be considered as applying to both proceedings, the issues being joined and involving the same adjustment.

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Application No. 8239 seeks authority to transfer the operative rights held by Mark R. Monzie and Samuel G. Teter, copartners, operating under the fictitious name of the Owners Transportation Company, to Henry E. Holmes and Philbrook W. Holmes, as purchasers, of the automobile truck service between San Francisco-San Jose and intermediate points, as per Decision No. 7959, Application No. 5812, August 5, 1920; between San Jose and Campbell, and between San Jose and Agnew, authorized by Decision No. 8280, Application No. 6040, October 25, 1920.

The application to transfer is signed by only one of the copartners, S. G. Teter. There is attached to the application, however, a sworn statement signed by H. E. Holmes, one of the purchasers, to the effect that Mark R. Monzie had personally stated that for some time past he had not had any interest in the freight line and for such reason would not sign the application to the Railroad Commission asking for a transfer of the operative rights.

Case No. 1810 is a proceeding on the Commission's own initiative, directed against Mark R. Monzie and Samuel G. Teter, copartners, doing business under the fictitious name of Owners Transportation Company, to show cause why the operative rights granted to said copartnership under Decisions Nos. 7959 and 8280 should not be revoked and annulled.

A public hearing was held in the above entitled proceeding before Examiner Geary on October 2, 1922, at San Francisco, at which time the matters were submitted and they are now ready for decision.

The testimony of Samuel G. Teter in Application No. 8239 was that the copartnership had not been dissolved, but was still in effect, although the testimony clearly indicated that to all intents and purposes Mark R. Monzie withdrew from active participation in the operation of the truck line shortly after October 25, 1920, when a certificate was issued in Application No. 6040 to operate between San Jose and Campbell and between San Jose and Agnew. Subsequent to October, 1920, Mr. Teter was the sole manager of the property, but there having been no legal dissolution of the copartnership, Mr. Teter continued to treat Mr. Monzie as a copartner.

On or about August 1, 1922, Samuel G. Teter became insolvent and on that date, without authority or notice to the Railroad Commission, abandoned all service, closed his terminal stations and refused to further accept or transport any tonnage. Furthermore, the said Samuel G. Teter, during the operation of the service, permitted owners of automobile trucks sold on time payments to operate under the certificate issued to the copartnership on a percentage basis, this action being in direct violation of the rules and regulations issued by the Railroad Commission for the operation of automobile truck companies under the provisions of chapter 213, Statutes 1917, and as amended.

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Subsequent to abandonment of the service by the Owners Transportation Company, Henry E. Holmes, one of the applicants to purchase (Application No. 8239), undertook the operation of the line and did, on occasions, operate a service presumably as the agent of Samuel G. Teter, although testimony was offered to the effect that at no time was any accounting whatsoever made to said Teter either as an individual or as a member of the copartnership, nor was any demand made by the copartnership or individual members thereof for an accounting of the funds derived from the transportation of freight moved under the direction of Holmes.

It further appears that said operations by Holmes were conducted for several weeks at a loss, but at no time did the copartnership or the individual members thereof agree to reimburse him for the losses incurred, nor did it appear that there was any understanding whatsoever that if a profit was earned from said operation it would revert to the copartnership holding the certificate.

Attention should be called to the fact that the Commission's order, Case No. 1810, directed Mark R. Monzie and Samuel G. Teter to appear before the Railroad Commission and show cause why the certificates heretofore issued to them should not be revoked and annulled.

A certified copy of said order to show cause was served upon Mark R. Monzie by registered mail, but the said Monzie failed to appear or to present any evidence whatsoever why the certificates heretofore issued to the joint copartnership, of which he was a member, should not be revoked and annulled.

As heretofore stated, the petition in Application No. 8239 to transfer from Monzie and Teter (Owners Transportation Company) to H. E. Holmes and Philbrook W. Holmes was signed only by S. G. Teter, the remaining partner, Mark R. Monzie, refusing to sign the petition for the sale of the property.

We believe that to authorize the transfer of property belonging to a copartnership without the consent of both partners thereto would be in violation of section 2430 of the Civil Code of California, which section of the code provides:

> A partner, as such, has not authority to do any of the following acts, unless his copartners have wholly abandoned the business to him, or are incapable of acting:
>
> 1. To make an assignment of the partnership property or any portion thereof to a creditor, or to a third person in trust for the benefit of a creditor or of all creditors;
> 2. To dispose of the good-will of the business;
> 3. To dispose of the whole of the partnership property at once, unless it consists entirely of merchandise.

Assuming, however, that the copartnership had been dissolved, as stated in the affidavit attached to the application, a transfer at this time from Teter to another party would be in violation of the terms of

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the original certificate, which provided that the operative rights granted to the copartnership would not be abandoned, transferred, assigned or leased without the written authorization of the Railroad Commission and since the application for such an authorization had never been made to the Commission the right is not vested in Teter as an individual to transfer or lease the copartnership certificate to a third party; such action would be illegal and in violation of the provisions of the order granting these certificates. The application to transfer will be denied.

In view of the evidence submitted and directed to Case No. 1810, the Railroad Commission hereby finds as a fact that the conditions under which the certificates were granted to the copartnership composed of Mark R. Monzie and Samuel G. Teter in Decisions Nos. 7959 and 8280, have not been complied with and that by reason of such violation there are sufficient justifications for the revocation of said certificates, and an order will be entered accordingly.

ORDER.

A public hearing having been held in the above entitled proceedings, evidence submitted and the Commission being fully advised, and basing its order upon the findings of fact as contained in the opinion preceding this order;

It is hereby ordered, that certificates of public convenience and necessity granted Mark R. Monzie and Samuel G. Teter, a copartnership, under Decision No. 7959 in Application No. 5812, and Decision No. 8280 in Application No. 6040, authorizing the operation of an automobile truck line as a common carrier of freight between San Francisco-San Jose and intermediate points; San Jose and Campbell, and San Jose and Agnew be and the same hereby are revoked and annulled; and

It is hereby further ordered, that any individual or company operating automotive trucks under said certificates shall be and is hereby directed to discontinue said service within not to exceed five (5) days from the date of the decision herein.

It is hereby further ordered, that Application No. 8239 be and it is hereby denied.

Dated at San Francisco, California, this fourteenth day of October, 1922.

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DECISION No. 11104.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING FIVE PER CENT GOLD BONDS TO THE AMOUNT OF FOUR MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS, FACE VALUE.

Application No. 8329.

Decided October 14, 1922.

Roy V. Reppy, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Southern California Edison Company asks permission to issue and sell at 90½ per cent of their face value and accrued interest $4,840,000 of general and refunding mortgage 5 per cent gold bonds of the "Series of 1919" payable February 1, 1944.

By Decision No. 10059, dated February 2, 1922, the Railroad Commission authorized applicant to issue $2,605,000 general and refunding bonds to pay or refund $2,605,000 of first and refunding mortgage 5 per cent bonds of The Edison Electric Company due September 1, 1922. It is of record that all but $592,000 of The Edison Electric Company first and refunding bonds were exchanged for applicant's general and refunding bonds. The $592,000 of bonds were paid in cash. Applicant desires to use the proceeds from $592,000 of bonds covered in this application, to reimburse itself on account of having paid in cash the $592,000 of The Edison Electric Company bonds. The remaining proceeds it intends to use for the purpose of financing additional hydro-electric developments on the San Joaquin River, and additions to its transmission and distribution system. Applicant has not filed a statement showing in detail the purposes for which it will use the proceeds. Pending the filing of such a statement or statements, applicant proposes to deposit the proceeds in accordance with the provisions of its general and refunding mortgage or deed of trust.

The testimony submitted in this and former proceedings shows that applicant needs additional cash to carry forward its hydro-electric developments and construct additions to its transmission and distribution system.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue $4,840,000 of bonds, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is

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reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell for cash, on or before December 31, 1922, at not less than 90½ per cent of their face value and accrued interest, $4,840,000 face value of 5 per cent general and refunding mortgage gold bonds of the "Series of 1919" due February 1, 1944.

The authority herein granted is subject to further conditions as follows:

1. The proceeds from the sale of $592,000 of bonds may be used by applicant to reimburse itself on account of having used cash in the amount of $592,000 to pay $592,000 bonds of The Edison Electric Company due September 1, 1922.

2. The proceeds, other than the accrued interest, obtained from the sale of $4,248,000 of bonds shall be deposited by applicant with a bank or banks, or with a trust company or companies and expended only for such purposes as the Railroad Commission may hereafter authorize. The accrued interest may be used by applicant for general corporate purposes.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1922.

DECISION No. 11107.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL BONDS IN THE AMOUNT OF TEN MILLION DOLLARS, FACE VALUE.

Application No. 6425.

Decided October 14, 1922.

BENEDICT, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 8539, dated January 12, 1921, as amended, authorized Southern California Edison Company to issue and sell on or before November 15, 1922, $10,000,000 of general and refunding mortgage 6 per cent 25-year gold bonds of the "Series of 1919."

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The company has sold $4,840,000 of the bonds pursuant to the authority granted in Decision No. 8603, dated January 26, 1921. In a supplemental petition filed on October 13th in the above entitled matter, the company asks permission to issue and sell at not less than 90½ per cent of their face value and accrued interest the remaining $5,160,000 of bonds. Because of the general decline in interest rates since January 12, 1921, the $5,160,000 of bonds will bear 5 instead of 6 per cent interest per annum.

The proceeds realized from the sale of bonds will be deposited in accordance with the deed of trust securing the payment of the bonds and expended only for such purposes as the Railroad Commission may hereafter authorize.

The Commission has considered applicant's request and believes that Decision No. 8539, dated January 12, 1921, should be modified as herein provided.

It is therefore ordered, that the order in Decision No. 8539, dated January 12, 1921, as amended, be and it is hereby further amended so as to permit Southern California Edison Company to issue and sell for cash at not less than 90½ per cent of their face value and accrued interest $5,160,000 face value of 5 per cent general and refunding mortgage 25-year gold bonds of the "Series of 1919" provided all of the proceeds, other than the accrued interest, obtained from the sale of the bonds, be deposited with a bank or banks, or a trust company or companies and expended only for such purposes as the Railroad Commission may hereafter authorize. The accrued interest may be used by applicant for general corporate purposes.

It is hereby further ordered, that the order in Decision No. 8539, dated January 12, 1921, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

The foregoing second supplemental order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of October, 1922.

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DECISION No. 11117.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY AND CITY OF LOS ANGELES FOR AN ORDER AUTHORIZING SOUTHERN CALIFORNIA EDISON COMPANY TO SELL TO THE CITY OF LOS ANGELES THE DISTRIBUTION SYSTEM OF SAID SOUTHERN CALIFORNIA EDISON COMPANY, SITUATED WITHIN SAID CITY OF LOS ANGELES, IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THE CONTRACT BETWEEN SAID PARTIES, DATED MAY 26, 1919, AND AGREEMENTS SUPPLEMENTAL THERETO, AND APPROVING SAID CONTRACT AND SAID AGREEMENTS SUPPLEMENTAL THERETO.

Application No. 7632 (Supplemental).

Decided October 18, 1922.

James G. Loevy, for Department of Public Service of City of Los Angeles and City of Los Angeles.
F. W. Cunningham, for Southern California Edison Company.
E. R. Rosenkranz, for Emil Firth.
Frank L. Muhleman, in propria persona.
Willis Owen, for Filcher and Cox.
A. D. Hitchcock, for the San Fernando Feed and Fuel Company.
M. H. Moser, for the Sunshine Company.
August Kleinau, for Mrs. Lena Kleinau.
Mrs. R. J. Lewis, in propria persona.

BRUNDIGE, *Commissioner.*

OPINION.

Southern California Edison Company applies herein for determination by the Commission of what disposition should be made of certain unrefunded deposits which it had on hand on May 16, 1922, the date of the transfer of properties to the city of Los Angeles as provided in Decision No. 10220 of this Commission in the above entitled matter, which deposits had been made by consumers of the Southern California Edison Company located within the city limits of Los Angeles and served from lines transferred to the city of Los Angeles in accordance with the above numbered decision.

A hearing in this supplemental petition was held on August 7, 1922, at which time evidence was introduced setting forth a list of all consumers served by Southern California Edison Company who had made deposits with it for the purpose of securing extensions to distribution lines within the city limits transferred to the city of Los Angeles, which deposits had not on May 16, 1922, been entirely refunded.

At the hearing it was urged by city of Los Angeles, now the owner of the property, that the deposits should be turned over to the city and that the city would willingly agree to see that the contracts covering the deposits were carried out by it and refunds made as provided therein. Certain of the consumers present urged that the moneys on deposit should be refunded to them, and this position was also taken by Southern California Edison Company. The number and amount of

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deposits listed in applicant's Exhibit 1, which had not been refunded up to the date of hearing, totals 195 deposits and $77,123.25.

This proceeding was submitted on August 7, 1922, subject to the provision that parties might have thirty days thereafter in which to file briefs relative to this matter. Briefs have been filed by Southern California Edison Company and by Frank L. Muhleman. No brief has been filed by city of Los Angeles.

It is urged by Southern California Edison Company that the amount of such deposits unrefunded shall be returned to the persons from whom deposits were received, provided that this should not apply in the cases where contract periods had expired prior to May 16, 1922.

Southern California Edison Company also urges that under the special contract between it and the Windsor Square Investment Company, dated the thirteenth day of June, 1912, no refund should be made although the actual contractual period did not expire until June 1, 1922.

Frank L. Muhleman urges also that the amounts be refunded.

An analysis of the list of contracts covering deposits indicates that a number of consumers deposited money prior to 1918, under contracts which provided for refunds during the first three years only. Practically all contracts from 1918 on have provided for no limitation as to period during which refunds would be made, with the exception of a few instances where a five-year period, and in some instances a ten-year period, was provided. From a study of the records of this Commission, it does not appear that there was any approval by this Commission of a three-year contract period nor was there any rule filed with the Commission covering this specific limitation. It is to be further noted that this Commission, in its Decision No. 2879 in Case No. 683, dated November 15, 1915, provided in Rule No. 15 thereof that the utilities should make extensions within a municipality provided that in any case in which the construction of an extension at a utility's sole cost would, in its opinion, work an undue hardship on it or its consumers, it might submit the matter to the Commission. The records do not show any approval of a three- or five-year contract thereafter. Under the circumstances I believe that it is only fair and just that Southern California Edison Company should treat all of the consumers listed alike, with the exception herein provided, although the period specified in the original contract has expired.

From a careful consideration of the evidence and the briefs filed in this proceeding, I find that Southern California Edison Company should refund to all consumers who have deposited money with it for extensions of service on the system which it transferred to the city of Los Angeles in accordance with the authority granted in Decision No. 10220, the amount of such deposits unrefunded, together with interest thereon at

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the rate of 6 per cent per annum from May 16, 1922, until same is refunded, provided, that this does not apply to the special contract between Southern California Edison Company and Windsor Square Investment Company, dated June 13, 1912.

I recommend the following form of order:

ORDER.

Southern California Edison Company having filed its supplemental petition with this Commission requesting the determination of what disposition should be made of certain unrefunded deposits covering extensions of service on the system transferred to the city of Los Angeles in accordance with Decision No. 10220 of this Commission, public hearing having been held and the period for the filing of briefs having expired;

It is hereby ordered, that Southern California Edison Company refund to all persons, firms or corporations from whom it has obtained deposits covering extension of service on lines transferred to the city of Los Angeles on May 16, 1922, as listed in Southern California Edison Company's Exhibit No. 1 herein, the unrefunded amounts, together with interest at the rate of six (6) per cent per annum on said unrefunded amounts from May 16, 1922, to date of refund. Said refunds are to be made before December 1, 1922. This order shall not apply to the contract with Windsor Square Investment Company.

It is hereby further ordered, that Southern California Edison Company file with this Commission on or before December 1, 1922, an affidavit setting forth the amount of each refund made, the date the same was made and the party to whom it was made.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of October, 1922.

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DECISION No. 11118.

IN THE MATTER OF THE APPLICATION OF JOE JOAQUIN AND GEO. COSTA FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO TRUCKS FREIGHT SERVICE BETWEEN ALVISO AND SAN FRANCISCO, CALIFORNIA.

Application No. 8154.

Decided October 18, 1922.

Norman E. Malcolm, for Applicants.
B. Aniater, for Riverdale Creamery Company, Protestant.
Frank B. Austin, for Southern Pacific Company, Protestant.
C. K. Harper, for Highway Transport Company, Protestant.

BY THE COMMISSION.

OPINION.

Joe Joaquin and Geo. Costa, copartners, filed an application with the Railroad Commission in which they petition for a certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of milk between Alviso and Mountain View and farms in the vicinity thereof to San Francisco.

A public hearing in the above entitled proceeding was held before Examiner Satterwhite on September 21, 1922, at San Francisco, California, at which time the matter was submitted and it is now ready for decision.

The granting of the application as herein proposed was protested by the Riverdale Creamery Company, Southern Pacific Company and the Highway Transport Company. The Southern Pacific Company withdrew with the understanding that the service herein proposed would be operated, should the certificate be granted, over the peninsula highway only and would at no time be operated over the bay ferries of the Southern Pacific Company. The protest of the Highway Transport Company was withdrawn when it was shown that applicants propose to handle milk only and that no other commodities would be transported either northbound or southbound, other than the return of empty cans from creameries in San Francisco to dairy ranches.

The evidence herein showed that applicants propose to operate two round trips per day and that at the present time they have the promise of eleven dairies who have agreed to ship their milk by their trucks. All of said dairies are at the present time being served by the Riverdale Creamery Company. Applicants testified that they propose to operate their trucks so as to save four of the dairy ranches the necessity of hauling their milk from the ranches to the roadside where it is picked up by the Riverdale Creamery Company's trucks. Applicants also propose a rate of 22 cents per ten-gallon can as against 28 cents per ten-gallon can as now charged by the Riverdale Creamery.

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One of the copartners herein is now engaged in the operation of a dairy ranch, being one of the ranches proposed to be served by applicants herein. It was the opinion of applicants that service could be rendered at a profit at a rate of 22 cents per ten-gallon can instead of the 28-cent rate at present charged.

It appears that no public necessity exists for the service as proposed by applicants, their main ground for the issuance of the certificate as applied for, being the lower rate under which they propose to operate. The Commission has held, on a number of occasions, that the law requires that a showing of public convenience and necessity must be made by applicant for a certificate and that a certificate could not be granted solely upon the ground that applicant proposes a rate lower than that charged by existing carriers.

If the rates charged by existing carriers are considered excessive, any one may, at any time, complain to the Railroad Commission petitioning for an order establishing just and reasonable rates for the service rendered. If certificates were granted by this Commission solely upon the proposal to render service at a lower rate, the holder of a certificate, in the event his proposed rates should prove noncompensatory, could at any time file application to secure an increase in rates. Such action, if not taken, would ultimately result in the abandonment of service entirely or an inadequate and inefficient service and the weakening of the existing carriers who properly care for the traffic requirements.

We are of the opinion that no showing has been made in this proceeding justifying the granting of the application and an order will be entered accordingly.

ORDER.

A public hearing having been held, evidence submitted and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this eighteenth day of October, 1922.

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DECISION No. 11119.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO SELL A PORTION OF ITS WATER SYSTEM.

Application No. 8189.

Decided October 18, 1922.

James S. Bennett, for Whittier Water Company and Judson Mutual Water Company.

BY THE COMMISSION.

OPINION.

The above entitled matter is an application by the Whittier Water Company for an order authorizing it to sell a portion of its system, together with certain water rights, in accordance with the terms of a certain agreement attached to the application.

A public hearing was held in this matter before Examiner Williams at Los Angeles at which time the Judson Mutual Water Company joined in the application. All parties interested were notified of the hearing and given an opportunity to be present and be heard.

The Whittier Water Company desires to sell that portion of its plant known as the Judson plant and the pipe lines now used in distributing the water therefrom, together with the right to take underground and surface waters from this location.

The evidence shows that there are only a few public utility consumers receiving water from this unit. A large majority of the public utility consumers of the Whittier Water Company receive water from either the Bassett or the Bartolo plants, through pipe lines that are to be retained.

The question of the adequacy of the supply to be retained by the Whittier Water Company for the use of these consumers was gone into and the evidence is clear that there still remains an adequate supply for the needs of all of the public utility consumers remaining on the Whittier Water Company's system.

The evidence also shows that the Whittier Water Company aims to have all the public utility consumers on the Judson System buy stock in the new company, and in case they do not, it intends to hold enough stock in the new company to have water delivered to them.

It was shown that this portion of the Whittier Water Company's system is practically a separate unit and can be separated from the remainder of the system without interfering in the least with the operation thereof.

After a careful consideration of all of the evidence, we believe that the authority requested by applicants should be granted.

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ORDER.

Whittier Water Company having applied to the Railroad Commission for authority to sell its Judson system and water rights to the Judson Mutual Water Company, a public hearing having been held and the matter having been submitted and now ready for decision;

It is hereby ordered, that the Whittier Water Company be and it is hereby granted authority to sell, and Judson Mutual Water Company to purchase, the certain properties and rights more particularly described in Appendix "A" attached hereto, in accordance with the terms of the agreement attached to the application, upon the following conditions and not otherwise:

(1) The purchase price agreed upon between the applicants herein shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any other purpose other than the transfer herein authorized.

(2) The authority herein granted shall apply only to such transfer as may have been made on or before June 30, 1923, and a certified copy of the instrument of conveyance shall be filed with this Commission by the Whittier Water Company within thirty (30) days of the date on which it is executed.

(3) Within ten (10) days from the date on which the Whittier Water Company actually relinquishes control and possession of the properties herein authorized to be transferred, a certified statement shall be filed with this Commission indicating the date on which such control and possession was actually relinquished.

(4) The authority herein granted shall apply only in case each of the public utility consumers, now supplied by this system, purchases stock in the Judson Mutual Water Company or sufficient stock is set aside and retained by the Whittier Water Company so that it can deliver water to any of these consumers who do not desire to purchase stock in the Judson Mutual Water Company.

(5) The Whittier Water Company shall file with this Commission, within ten (10) days after the date on which control and possession has actually been relinquished, a certified statement showing the names of all of the present public utility consumers listed in paragraph No. 8 of the application, who have not purchased stock in the new company, and the amount of stock being held by the Whittier Water Company solely for the purpose of having water delivered to these consumers.

Dated at San Francisco, California, this eighteenth day of October, 1922.

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APPENDIX "A."

Schedule of Property to be Conveyed by Whittier Water Company to Judson Mutual Water Company.

1. Lot one (1) of tract nineteen hundred and ten (1910) of the Rancho Paso de Bartolo, in the county of Los Angeles, as per map recorded in book 21 of maps, at page 159, in the office of the county recorder of said county of Los Angeles, together with all the pumps, engines, water service equipment and other improvements thereon, subject to easements now of record, excepting and reserving to said Whittier Water Company two-thirds of the net avails of said Judson Mutual Water Company, its successors and assigns, of any oil, gas, or other hydrocarbons produced from said lot one (1) of tract nineteen hundred and ten (1910) or received by it on account of permission to explore said land for the same, and whether the same shall accrue by its own operations or from bonus, rent, royalty or otherwise.

2. All the right, title and interest of said party of the first part in and to the 1000 miner's inches of water confirmed to it by paragraph XXXVII of the judgment of the Superior Court of the State of California in and for the county of Los Angeles entered November 20, 1917, in book 421, at page 2131, of judgments of said court, in action No. 90606, wherein Cate Ditch Company, a corporation, and others were plaintiffs and Whittier Water Company, a corporation, and others, were defendants (said interest hereby conveyed being 700 inches out of said 1000 inches).

3. That part of lot forty-one (41) in block two (2) of tract five hundred and five (505) according to map recorded in map book 15, pages 94 and 95, records of Los Angeles County, California, described as follows: Beginning at the most westerly corner of said lot forty-one (41); thence south 49°-54′ east along the southwesterly line of said lot forty-one (41) 74.00 feet to a point; thence north 40°-16′ east 182.62 feet to a point in the northwesterly line of said lot forty-one (41); thence south 62°-09′-30″ west along said northwesterly line 197.04 feet to the point of beginning, containing 0.16 acres of land, together with all the pumps, engines, water service equipment and other improvements thereon, subject to exceptions, reservations and conditions now of record.

4. All the right, title and interest of the party of the first part in that certain easement and right of way conveyed to the party of the first part by Elizabeth Ogden by instrument recorded May 9, 1917, in book 6467, at page 343 of deeds, records of Los Angeles County.

5. That certain thirty (30) inch cement pipe line beginning at the concrete division box on south side of the Los Angeles and Santa Ana road at its intersection with Colima road; thence south 26° east 65 feet; thence north 45° east 65 feet; thence south 65°-18′ east 378 feet; thence south 69°-11′ east 435 feet; thence north 81°-51′ east, 123 feet; thence north 72°-59′ east 176 feet; thence north 81°-20′ east 152 feet; thence north 83°-56′ east 627 feet; thence north 60°-23′ east 564 feet; thence south 73°-57′ east 586 feet; thence south 65°-26′ east 209 feet; thence south 51°-57′ east 153 feet; thence south 14°-03′ east 343 feet to the intersection of old thirty (30) inch cement line east of California Domestic Water Company's Plant No. 3, excepting and reserving to said Whittier Water Company the capacity of said thirty (30) inch cement line in excess of 400 miner's inches continous flow.

6. Hart Line.—Commencing at the easterly end of said 30″ cement line (parcel five (5) above described) thence easterly 751 feet of 32″ x 28″ concrete conduit, to the pipe line of La Habra Heights Company connecting with the pumping plant of La Habra Heights Mutual Water Company.

7. La Mirada Line.—Commencing at pumping plant on lot 1 of tract 1910 of the Rancho Paso de Bartolo (parcel number one (1) hereinbefore described), 350 feet of 48″ x 28″ concrete conduit; then 350 feet of 36″ steel riveted No. 8 pipe; then 40 feet of 48″ steel riveted No. 8 pipe; then 585 feet of 36″ x 36″ concrete conduit, in place across said lot 1 to Norwalk and Puente Hills road; thence southeasterly along east side of said Norwalk and Puente Hills road 600 feet 48″ x 48″ concrete conduit; then 1400 feet of 36″ cement pipe; then 4900 feet of 36″ cement pipe, to southerly side of Pacific Electric Railway right of way across said road; thence southerly along east side of Norwalk and Puente Hills road 500 feet of 36″ x 36″ concrete conduit to Atchison, Topeka and Santa Fe Railway right of way at Los Nietos; thence southeasterly along northwest side of said right of way 980 feet of 30″ cement pipe; then 11½ feet of 30″ steel, riveted, pipe under railway tracks; then 570 feet of 30″ cement pipe to Los Nietos and La Mirada road; thence southeasterly along southwest side of Los Nietos and La Mirada road 6022 feet of 30″

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cement (Bell) pipe; then 100 feet of cement (Bell) pipe to junction of road last mentioned with Painter road; thence 3750 feet of 28" x 28" concrete conduit; then 381 feet of 34" x 28" concrete conduit; then 24 feet of steel, riveted, in concrete, under railway tracks; then 370 feet of 34" x 28" concrete conduit to Orchard Dale No. 1 Plant near junction of Los Nietos and La Mirada road with unnamed road; thence northwesterly along unnamed road 700 feet of 16" steel, riveted, in concrete; then 26 feet of 20" steel, riveted, in concrete, to the 14" line of the Orchard Dale Water Company.

8. Valley View Line.—Commencing near the intersection of Valley View avenue with Broadway; thence southwesterly along Valley View avenue in tract 505, 2000 feet of 4" steel, riveted, pipe #16, to the southeast corner of lot 77, said tract 505.

9. Gunn Road Line.—Commencing at the intersection of Gunn road with Los Nietos and La Mirada road; thence northeasterly along Gunn road 2700 feet of 16" concrete pipe to pumping plant of Colima Tract Water Company.

10. Colima Road Line.—Commencing at the intersection of Colima road with Los Angeles and Santa Ana road (Whittier boulevard) thence southwesterly along Colima road 8184 feet of 18" redwood pipe, to the northeast corner of lot 95, in tract 505; thence westerly and thence southerly 700 feet of 12" redwood pipe, to a point near the southerly line of said lot 95 approximately 600 feet west of Colima road.

11. Painter Road Line.—Commencing at the intersection of Painter road with Los Nietos and La Mirada road; thence northwesterly along Painter road 1585 feet of 16" cement pipe; then 1864 feet of 14" and 16" cement pipe, double strength, to pumping plant of Santa Gertrudes Irrigation Company.

12. Carlton Road Line.—Commencing at the intersection of Carlton road with Los Nietos and La Mirada road; thence southerly along said Carlton road 1218 feet of 12" cement pipe.

DECISION No. 11123.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF TWENTY MILLION DOLLARS AND TO SELL AND DISPOSE OF SUCH NOTES OF THE FACE VALUE OF FIVE MILLION DOLLARS.

Application No. 8331.

Decided October 18, 1922.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

The Railroad Commission is asked to make an order authorizing the Western States Gas and Electric Company:

(1) To execute an agreement providing for an authorized issue of $20,000,000 of notes;

(2) To issue and sell at not less than 91½ and accrued interest $5,000,000 of the notes bearing 6 per cent interest and maturing October 1, 1937; or issue and sell interim certificates pending the delivery of the notes;

(3) To use the proceeds obtained from the sale of notes to pay and refund $1,199,000 of 6½ per cent collateral trust gold notes due August 1, 1923, and $2,668,000 of 6 per cent notes due February 1, 1927, and to finance new construction.

As of August 31, 1922, applicant reports its funded debt at $15,249,000. This amount consists of $6,050,000 of 5 per cent first

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mortgage bonds, $5,000,000 of 6 per cent first and unified mortgage bonds, $3,000,000 of 6 per cent notes and $1,199,000 of 6½ per cent collateral trust gold notes. The $6,050,000 of 5 per cent first mortgage bonds includes $1,724,000 of bonds pledged as collateral to secure the payment of the 6½ per cent collateral trust gold notes and $115,500 of bonds in the company's treasury, leaving $4,210,500 of 5 per cent bonds in the hands of the public. The $3,000,000 of 6 per cent notes includes $332,000 of notes in the company's treasury which it is authorized to issue under previous orders of the Commission, leaving $2,668,000 of notes outstanding in the hands of the public. Applicant's funded debt outstanding and in the hands of the public as of August 31, 1922, is reported at $13,077,500. In this connection, it should be said that the $5,000,000 of first and unified 6 per cent bonds outstanding have been issued and sold for the purpose of paying in whole or in part the cost of the company's El Dorado power plant now in process of construction.

The payment of the $1,199,000 of applicant's 6½ per cent collateral trust gold notes is secured by the deposit of $1,724,000 of its 5 per cent first mortgage bonds. Upon the payment of the notes, the bonds must, in accordance with the provisions of applicant's first and unified mortgage or deed of trust, be deposited with the trustee under such mortgage or deed of trust.

Applicant's $2,668,000 of 6 per cent notes are part of an authorized issue of $5,000,000. In the agreement under which these notes were issued, the company agrees that it will not mortgage, pledge or otherwise encumber any of its property, real, personal or mixed, unless and until it shall by mortgage or deed of trust secure the carrying out of the note agreement and the payment of the principal and interest of the notes issued and issuable under the note agreement equally and ratably with the bonds, notes or other obligations secured by such mortgage or deed of trust.

During the current year applicant executed a first and unified mortgage or deed of trust. In this instrument applicant agreed not to issue more than $3,000,000 of the 6 per cent notes. It has to date issued $2,668,000 of notes. It has also issued, under the first and unified mortgage, $5,000,000 of bonds. The payment of both the notes, up to $3,000,000, and the bonds is secured by applicant's first and unified mortgage or deed of trust. Under this instrument applicant may issue bonds in amounts equal to but not exceeding 75 per cent of the actual and reasonable expenditures on and after March 1, 1922, for extensions of and additions to its plants and properties or to those of its subsidiary companies, provided its net income, as defined in the mortgage or deed of trust, is equal to one and three-quarters times the interest on applicant's outstanding bonded indebtedness including the $2,668,000 of notes and the interest on the bonds which the trustee may be asked to

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certify. Reference is here made to the mortgage or deed of trust for a more complete statement of the terms and conditions under which bonds may be issued to finance, in part, the company's new construction.

It is of record that applicant's 6½ per cent collateral trust notes are now selling at 100½; its 6 per cent notes around 99 and its first and unified 6 per cent bonds at from 98 to 99 and accrued interest. It is believed that the refunding of the two-note issues through a 15-year note issue will materially improve the marketability of applicant's first and unified mortgage bonds. Their payment will be secured further by the deposit of the $1,724,000 of applicant's first mortgage bonds now deposited as collateral to secure the payment of the $1,199,000 of 6½ per cent collateral trust notes, while the $2,668,000 of 6 per cent notes now secured by the first and unified mortgage will be paid. It is believed that through this refunding of indebtedness, applicant will be able to have some of its first and unified mortgage bonds certified for general construction purposes.

Applicant as of August 31, 1922, reported notes and accounts payable in the sum of $1,035,717.09. Its general construction expenditures for 1923 are estimated by its general manager at from $750,000 to $1,000,000. To pay its current indebtedness and provide funds for its 1923 general construction, applicant has available for sale preferred stock, $115,500 of first mortgage bonds and $332,000 of 6 per cent notes. It is not believed that enough money can be realized from the sale of the stock, bonds and notes to provide applicant with sufficient money to meet its 1923 obligations. Applicant, therefore, proposes to create a new note issue to pay and refund the two note issues referred to and to provide itself with a means of financing part of its 1922 and 1923 general construction expenditures.

The $5,000,000 of notes which applicant asks permission to issue will be known as Series "A." There has not yet been filed with the Commission a complete copy of the agreement under which the notes will be issued. The testimony, however, shows that the payment of the notes will not be secured by a mortgage or deed of trust; but no additional mortgages may be created by applicant except purchase money mortgages, unless the notes issued under the agreement are ratably secured with the obligations to be issued under such mortgage. The $5,000,000 of Series "A" notes are redeemable at any time prior to maturity, as a whole or in part, on thirty days published notice, at 105 per cent of the par value and accrued interest during the first five years of their term, at 102½ per cent of their par value and accrued interest during the next five years and at 101 per cent of their par value and accrued interest during the last five years of their term. The agreement is to provide for the issue of additional notes in series, bearing interest at

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such rate and redeemable at such prices as applicant's board of directors may determine. Such additional notes, however, may be certified only when the net earnings of applicant and its subsidiary corporations, before deducting depreciation and amortization of debt discount and expense, for a period of twelve consecutive calendar months ending not less than sixty days prior to the date of the application for certification of notes, shall have been equal to at least one and one-half times the annual interest charge on all of applicant's bonds then outstanding, on all notes issued under the agreement and on the notes which the trustee is asked to certify. The $5,000,000 of Series "A" notes are to be dated October 1, 1922, and mature October 1, 1937. Pending the delivery of the notes, applicant asks permission to issue interim certificates to be exchanged for the notes.

While the payment and refunding of the $1,199,000 of applicant's 6½ per cent collateral trust notes and the $2,668,000 of applicant's 6 per cent notes through the issue of 6 per cent notes at 91½ per cent of their face value and accrued interest will result in an increase in applicant's annual interest charges, I believe that applicant should, through the sale of securities hereafter, be able to absorb such increase. If applicant is unable to do this within a reasonable time, the Commission may direct it to charge some of the expense of the refunding of indebtedness, to which reference is herein made, to profit and loss, in order that part of the cost of such refunding may be eliminated from the cost of money to applicant.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for permission to execute an agreement under which it intends to issue notes and to issue and sell $5,000,000 of notes, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of $5,000,000 of notes is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, on or before April 1, 1923, at not less than 91½ per cent of their face value and accrued interest, $5,000,000 of Series "A" 6 per cent notes due October 1, 1937, or interim certificates of a like amount; provided that all moneys obtained from the sale of the interim certificates be deposited with a trustee or trustees, subject to a condition that if the notes are not issued the moneys shall be returned to the purchasers of the interim certificates. No notes may be delivered until the Commission has

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authorized the execution of the agreement under which the notes will be issued.

It is hereby further ordered, that Western States Gas and Electric Company shall file with the Commission, as soon as available, and in any event within thirty days after the expiration of the authority herein granted, a statement showing in detail the entire cost of paying or refunding the $1,199,000 of 6½ per cent collateral trust notes and the $2,668,000 of 6 per cent notes referred to herein through the issue of the notes herein authorized, such statement to include, among other expenses, a proper proportion of the cost of creating the new note indebtedness, the loss of interest through the issue of interim certificates or notes prior to the use of the proceeds, the discount on the notes issued, the premium on the notes paid or refunded and the amount expended to pay the principal of the notes.

The authority herein granted is subject to further conditions as follows:

(1) Upon receiving authority to execute an agreement under which the $5,000,000 of Series "A" notes may be issued, applicant may use such part of the proceeds as is necessary to pay or refund the $1,199,000 of 6½ per cent collateral trust notes due August 1, 1923, and the $2,668,000 of 6 per cent notes due February 1, 1927. The remainder of the proceeds shall be deposited with a bank or banks or with a trust company or companies and expended only for such purposes as the Railroad Commission may authorize.

(2) If applicant exercises the authority herein granted, the Commission reserves the right to direct applicant hereafter to charge to profit and loss a part of the expense of refunding the two note issues, to which reference is herein made, and to consider in any rate or other proceeding, when pertinent, only the reasonable cost of money to applicant.

(3) The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

(4) Western States Gas and Electric Company shall keep such record of the issue and sale of the notes and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

It is hereby further ordered, that upon the payment of $1,199,000 of 6½ per cent collateral trust notes, applicant's first and refunding mortgage bonds (now first mortgage bonds) deposited as collateral to secure the payment of such notes, shall be delivered to the trustee under applicant's first and unified mortgage or deed of trust.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of October, 1922.

DECISION No. 11127.

IN THE MATTER OF THE APPLICATION OF FRED MEYERS, SOLE OWNER OF THE PULLMAN WATER COMPANY, FOR AN ORDER TO HYPOTHECATE ALL OF THE PROPERTY OF THE SAID PULLMAN WATER COMPANY FOR CERTAIN PURPOSES.

Application No. 7154.

Decided October 18, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

In a supplemental petition filed in the above entitled matter on October 13, 1922, Fred Meyers, operating a public utility water system under the name of Pullman Water Company, asks permission to execute a mortgage to secure the payment of a note in the principal sum of $7,000 payable serially in equal annual installments of $1,000 each, with interest at 7 per cent per annum, for the purpose of obtaining moneys to pay a judgment obtained by Alois J. Meindersee and Grace Meindersee, together with interest, costs and expenses in connection therewith.

By Decision No. 11064, dated October 7, 1922, in the above entitled matter, the Railroad Commission authorized Fred Meyers to execute a mortgage of his public utility properties to secure to Alois J. Meindersee and Grace Meindersee the payment of the aforesaid judgment, interest and costs. Reference is here made to Decision No. 11064, which contains a review of the court proceedings.

At the hearing held on the original petition, applicant reported that he might be compelled to issue long term notes to secure moneys to pay the judgment, interest and costs. At the time applicant, however, was not in a position to advise the Commission definitely of the course he would follow and the Commission therefore authorized him to execute a mortgage to secure the payment of the judgment, interest and costs. He now reports in the supplemental petition that he intends to pay such judgment through the issue of a $7,000 note, the payment of which he proposes to secure by the execution of a mortgage covering all of his public utility properties. It is of record that the judgment, together with interest and costs to date, amounts to $6,300. In addition, appli-

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cant reports that he has incurred other expenses incidental to the litigation amounting to $2,500.

Counsel for Alois J. Meindersee and Grace Meindersee consented to the issue of an order by the Railroad Commission authorizing applicant to execute a mortgage as proposed by him in his supplemental petition, provided that such an order contain a provision that so much of the proceeds realized through the issue of the note and the execution of the mortgage as may be necessary, shall be used for the purpose of paying and discharging the judgment against Fred Meyers referred to herein.

It appears that applicant does not intend to avail himself of the permission granted in Decision No. 11064. We believe that the order in that decision should be vacated, set aside, and the request made in this supplemental petition granted as herein provided; therefore,

It is hereby ordered, that Fred Meyers, operating a public utility water system under the name of Pullman Water Company, be and he is hereby authorized to issue a note at not less than face value in the principal amount of $7,000 and execute a mortgage upon his public utility property substantially in the same form as the mortgage filed with the supplemental petition herein on October 13, 1922, for the purpose of securing the payment of the note.

It is hereby further ordered, that the order in Decision No. 11064, dated October 7, 1922, be and it is hereby vacated and set aside.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall use so much, as may be necessary, of the $7,000 received through the issue of the note herein authorized to pay the judgment together with the costs and interest against him by Alois J. Meindersee and Grace Meindersee, which judgment is referred to herein. That part of the $7,000 not needed to pay the aforesaid judgment, costs and interest, may be used by applicant to pay other expenses incidental to the litigation relating to said judgment, or for such other purposes as the Railroad Commission may authorize.

2. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

4. Applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to

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file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such mortgage and note as may be executed and issued on or before December 31, 1922.

Dated at San Francisco, California, this eighteenth day of October, 1922.

DECISION No. 11128.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911 AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 18, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

MONTEREY AND PACIFIC GROVE RAILWAY COMPANY.

The Railroad Commission being by section 8 of chapter 499 Statutes of 1911, as amended by chapter 600, Statutes of 1915, authorized to grant additional time during which overhead electric and signal lines constructed prior to October 22, 1911, may be brought into compliance with the requirements of said act and the Railroad Commission having made an inspection of the overhead electric lines of Monterey and Pacific Grove Railway Company and having found certain infractions of said act which in the opinion of the Commission do not constitute sufficient hazard to employees or the general public to warrant the immediate reconstruction of said lines;

It is hereby ordered, that the time during which Monterey and Pacific Grove Railway Company may reconstruct its system of overhead electric and signal lines in order to comply with the requirements of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended until the violations of said act are eliminated in the course of maintenance or usual reconstruction work.

Dated at San Francisco, California, this eighteenth day of October, 1922.

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DECISION No. 11131.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911 AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 18, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

MIDLAND COUNTIES PUBLIC SERVICE CORPORATION.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Midland Counties Public Service Corporation and has found a total of 3400 infractions of said act, and certain other hazardous conditions which should be eliminated, as shown in detail upon copies of the field reports of the inspection which have been furnished Midland Counties Public Service Corporation or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Midland Counties Public Service Corporation to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before July 1, 1923;

It is hereby ordered, that the time during which Midland Counties Public Service Corporation may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to July 1, 1923, provided that as to certain infractions listed as "technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before July 1, 1923, Midland Counties Public Service Corporation complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes

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of 1911, as amended by chapter 600, Statutes of 1915, listed as "hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this eighteenth day of October, 1922.

DECISION No. 11132.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911 AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 18, 1922.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.
COAST COUNTIES GAS AND ELECTRIC COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Coast Counties Gas and Electric Company and has found a total of 8833 infractions of said act, and certain other hazardous conditions which should be eliminated, as shown in detail upon copies of the field reports of the inspection which have been furnished Coast Counties Gas and Electric Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Coast Counties Gas and Electric Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before July 1, 1923;

It is hereby ordered, that the time during which Coast Counties Gas and Electric Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to July 1, 1923, provided that as to certain infractions listed as "technical,

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prior to October 22, 1911,'' upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before July 1, 1923, Coast Counties Gas and Electric Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as ''hazardous or technical since October 22, 1911,'' upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this eighteenth day of October, 1922.

DECISION No. 11140.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 19, 1922.

BY THE COMMISSION.

ELEVENTH SUPPLEMENTAL ORDER.

LOMPOC LIGHT AND POWER COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines, subject to the provisions of said act, may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Lompoc Light and Power Company and has found a total of 407 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Lompoc Light and Power Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Lompoc Light and Power Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before January 1, 1923;

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It is hereby ordered, that the time during which Lompoc Light and Power Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to January 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before January 1, 1923, Lompoc Light and Power Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical, since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this nineteenth day of October, 1922.

DECISION No. 11141.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 19, 1922.

BY THE COMMISSION.

TWELFTH SUPPLEMENTAL ORDER.

GONZALES ELECTRIC COMPANY.

Whereas, The Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines, subject to the provisions of said act, may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, The Railroad Commission has made an inspection of the overhead electric lines of Gonzales Electric Company and has found a total of 224 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Gonzales Electric Company or its agents by this Commission; and

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Whereas, The Railroad Commission is of the opinion that it will be reasonably possible for Gonzales Electric Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before January 1, 1923;

It is hereby ordered, that the time during which Gonzales Electric Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to January 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before January 1, 1923, Gonzales Electric Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical, since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this nineteenth day of October, 1922.

DECISION NO. 11142.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 19, 1922.

BY THE COMMISSION.

THIRTEENTH SUPPLEMENTAL ORDER.

DEL MONTE LIGHT AND POWER COMPANY.

Whereas, The Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines, subject to the provisions of said act, may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, The Railroad Commission has made an inspection of the overhead electric lines of Del Monte Light and Power Company and

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has found a total of 113 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Del Monte Light and Power Company or its agents by this Commission; and

Whereas, The Railroad Commission is of the opinion that it will be reasonably possible for Del Monte Light and Power Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before January 1, 1923;

It is hereby ordered, that the time during which Del Monte Light and Power Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to January 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before January 1, 1923, Del Monte Light and Power Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical, since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this nineteenth day of October, 1922.

DECISION NO. 11145.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO REIMBURSE ITS TREASURY FOR CAPITAL EXPENDITURES AND TO FINANCE THE CONSTRUCTION OF ADDITIONS, EXTENSIONS, BETTERMENTS AND IMPROVEMENTS IN THE MANNER SET FORTH HEREIN.

Application No. 8285.

Decided October 20, 1922.

BY THE COMMISSION.

ORDER.

In this proceeding Pacific Gas and Electric Company asks permission to use the proceeds obtained from the sale of stock or proceeds which it will hereafter obtain from the sale of stock, the issue of which is authorized, to pay construction expenditures on its system or that of

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the Mount Shasta Power Corporation, all of whose stock, except shares necessary to qualify directors, is owned by applicant.

Applicant reports its unreimbursed capital expenditures and estimated capital expenditures subsequent to June 30, 1922, as follows:

Unreimbursed capital expenditures at June 30, 1922, of Pacific Gas and Electric Company and Mount Shasta Power Corporation (Exhibit B)	$2,553,967 64
Unexpended balance of capital expenditures authorized at June 30, 1922, of Pacific Gas and Electric Company (Exhibit C)	6,318,570 32
Estimated cost of new construction of Pacific Gas and Electric Company for 1922 and 1923 (Exhibit D)	3,150,000 00
Unexpended balance of capital expenditures authorized at June 30, 1922, of Mount Shasta Power Corporation (Exhibit E)	2,245,576 60
Total	$14,268,114 56

Applicant reports that it will receive from stock already sold but not fully paid, $2,514,392.02. The issue of this stock has been authorized by orders in the following applications: Nos. 4704, 5898, 6229, 6585, 7234, 7432 and 8104. Deducting the $2,514,392.02 from the unreimbursed and estimated construction expenditures of $14,268,114.56 leaves a balance of $11,753,722.54.

Applicant reports that of the stock authorized by Decision No. 10004, it had not at June 30, 1922, sold $1,618,300 and that of the stock authorized by Decision No. 10872 it had not at September 15, 1922, sold $2,859,700. The total par value of stock authorized by the Commission but not sold by applicant amounts to $4,478,000.

Applicant requests permission to use the $2,514,392.02 and the proceeds which it will realize from the sale of $4,478,000 par value of stock to finance, in part, its unreimbursed capital expenditures and estimated capital expenditures aggregating $14,268,114.56.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to use the $2,514,392.02 referred to in this order and in the above entitled application, together with the proceeds obtained from the sale of $4,478,000 par value of stock, the issue of which is authorized by Decisions Nos. 10004 and 10872, to finance, in part, its unreimbursed and estimated capital expenditures reported in Exhibit B, Exhibit C, Exhibit D and Exhibit E filed in this proceeding.

It is hereby further ordered, that the orders in Applications Nos. 4704, 5898, 6229, 6585, 7234, 7432 and 8104, as amended, shall remain in full force and effect, except as modified by this order.

Dated at San Francisco, California, this twentieth day of October, 1922.

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DECISION No. 11146.

IN THE MATTER OF THE APPLICATION OF EMPIRE MILL AND ELECTRIC COMPANY, A CORPORATION, TO LEASE ITS ELECTRIC LIGHT PLANT, LINES AND WATER DITCH TO A. L. YOUNG.

Application No. 7941.

Decided October 20, 1922.

BY THE COMMISSION.

ORDER.

Empire Mill and Electric Company asks permission to lease its electric plant to A. L. Young. The company is engaged primarily in operating a flour mill at Fort Bidwell, Modoc County. In connection with its flour mill, it operates a small hydro-electric plant during the summer season. The operating revenues for the electric properties during 1921 are reported at $613.15. Applicant reports that it is difficult for it to obtain competent help to operate the electric plant and believes that the community will be given better service if it leases such plant to A. L. Young. A copy of the proposed lease is filed in this proceeding.

The Commission has considered applicant's request and believes that this is a matter on which a public hearing is not necessary and that this application should be granted as herein provided; therefore,

It is hereby ordered, that Empire Mill and Electric Company be and it is hereby authorized to lease its electric plant to A. L. Young pursuant to the terms and conditions of the lease, a copy of which is filed in this proceeding. The Commission reserves the right to modify from time to time the lease if it should appear that such modification is in the public interest.

Dated at San Francisco, California, this twentieth day of October, 1922.

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DECISION No. 11151.

IN THE MATTER OF THE APPLICATION OF DAVID SCHMIDT AND F. K. EMICH FOR AUTHORITY TO DISSOLVE THEIR COPARTNERSHIP AND SELL TO EACH OTHER CERTAIN PORTIONS OF THE AUTOMOBILE TRUCK LINE NOW BEING OPERATED BY THEM AS COPARTNERS BETWEEN FRESNO AND CUTLER VIA DINUBA, SULTANA AND OROSI.

Application No. 8312.

Decided October 23, 1922.

TRANSFER—MOTOR CARRIER—OPERATIVE RIGHT—INDIVISIBLE.—An operative right granted to a motor carrier is held to be indivisible and through transfer can not be enlarged upon nor more than one right created where only one existed.

BY THE COMMISSION.

ORDER.

David Schmidt and F. K. Emich, applicants in the present proceeding, are at this time copartners operating an automobile truck line as a common carrier of freight between Fresno, Reedley, Dinuba, Sultana, Orosi and Cutler.

It appears from the application that applicants herein desire to dissolve the existing copartnership and divide the equipment between the two copartners and to operate truck service as individuals, one to operate between Fresno and Dinuba, the other between Fresno, Sultana, Orosi and Cutler.

Under Decision No. 7222 in Application No. 4096, dated March 8, 1920, one J. M. Parrish was granted a certificate of public convenience and necessity authorizing the operation of an automobile freight line between Fresno, Reedley, Dinuba, Sultana, Orosi, Cutler and intermediate points, provided no freight whatsoever would be handled between Fresno and Kingsburg. This operative right was subsequently transferred to a copartnership consisting of Schmidt and Emich under Decision No. 7973 in Application No. 5904, dated August 10, 1920.

Under Decision No. 7222 in Application No. 4096, the Railroad Commission found that a public necessity existed for a specific service and in accordance therewith established a single and indivisible operative right, which operative right was later transferred under Decision No. 7973 to the copartnership. This copartnership now proposes, under the present application, to divide their physical assets and to create two independent operative rights out of the one heretofore created by the Commission. The Commission has repeatedly held that an operative right is indivisible and that through transfer it can not be enlarged upon nor more than one right created where only one heretofore existed. Accordingly, the present application must be denied.

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It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this twenty-third day of October, 1922.

DECISION No. 11152.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS PREFERRED CAPITAL STOCK IN THE AMOUNT OF THREE MILLION DOLLARS.

Application No. 8324.

Decided October 23, 1922.

Paul Overton, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Los Angeles Gas and Electric Corporation asks permission in this proceeding to issue and sell at not less than $90 per share 30,000 shares ($3,000,000 par value) of its 6 per cent cumulative preferred stock and use the proceeds to pay the cost of extensions, additions and betterments to its plants, and the cost of selling the stock.

Applicant has an authorized stock issue of $30,000,000 divided into $20,000,000 of common and $10,000,000 of preferred. As of October 1, 1922, it reports $10,000,000 of the common and $4,732,000 of the preferred stock issued and outstanding.

The Commission has heretofore authorized applicant to issue and sell $7,000,000 of its preferred stock. Applicant's Exhibit No. 2 shows that as of October 13, 1922, $6,382,100 of the stock had been sold at prices ranging from $85 to $90 per share, and leaving $617,900 of stock unsold. The $6,382,100 includes stock sold on installment payments for which certificates of stock will not be issued until the stock is fully paid.

In Exhibit No. 4 applicant reports the estimated cost of 1923 betterments approved to date at $2,737,000. This account consists of the following:

Gas works—		
One 10-million foot holder	$677,000 00	
One 6-million foot holder	438,000 00	
Two 1-million cubic feet per hour compressors	212,000 00	
		$1,327,000 00
Electric works—		
One 17,500 kilowatt turbo generator with boilers and condensing apparatus		760,000 00
Pipe fittings, etc., amounting to at least		650,000 00
Total		$2,737,000 00

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It is of record that applicant has contracted for the two gas holders, the two gas compressors and the 17,500 kilowatt turbo generator. It is believed that the proceeds from the sale of stock and bonds heretofore authorized to be issued by the Commission will be sufficient to pay for applicant's 1922 construction expenditures.

Applicant therefore requests permission to use the proceeds from the $3,000,000 of stock covered in this application to pay in part the construction expenditures reported in Exhibit No. 4.

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue 30,000 shares ($3,000,000 par value) of its 6 per cent cumulative preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order, and that the expenditures authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue 30,000 shares ($3,000,000 par value) of its 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized to be issued shall be sold by applicant for cash at not less than $90 per share. Of the proceeds realized applicant may use an amount not to exceed the equivalent of $2.50 per share to pay commissions and expenses incidental to the sale of the stock. The remainder of the proceeds, including such portion of the said $2.50 per share not necessary to pay commissions and expenses incidental to the sale of the stock, shall be used by applicant to pay, in part, the cost of the additions and extensions to its plants, properties and equipment set forth in its Exhibit No. 4, filed in this proceeding.

2. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before June 30, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of October, 1922.

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DECISION No. 11153.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 23, 1922.

BY THE COMMISSION.

FOURTEENTH SUPPLEMENTAL ORDER.

SANTA BARBARA AND SUBURBAN RAILWAY COMPANY.

Whereas, The Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced, and

Whereas, The Railroad Commission has made an inspection of the overhead electric lines of Santa Barbara and Suburban Railway Company and has found a total of 972 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Santa Barbara and Suburban Railway Company or its agents by this Commission, and

Whereas, The Railroad Commission is of the opinion that it will be reasonably possible for Santa Barbara and Suburban Railway Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before February 23, 1923;

It is hereby ordered, that the time during which Santa Barbara and Suburban Railway Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to February 23, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before February 23, 1923, Santa Barbara and Suburban Railway Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499,

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Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this twenty-third day of October, 1922.

DECISION No. 11154.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION, ON ITS OWN MOTION, INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided October 23, 1922.

BY THE COMMISSION.

FIFTEENTH SUPPLEMENTAL ORDER.

TOWN OF TEHACHAPI.

Whereas, The Railroad Commission is, by section 8 of chapter 299, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced, and

Whereas, The Railroad Commission has made an inspection of the overhead electric lines of the town of Tehachapi and has found a total of 117 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished the town of Tehachapi or its agents by this Commission, and

Whereas, The Railroad Commission is of the opinion that it will be reasonably possible for the town of Tehachapi to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before January 1, 1923;

It is hereby ordered, that the time during which the town of Tehachapi may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to January 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to,

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such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before January 1, 1923, the town of Tehachapi complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this twenty-third day of October, 1922.

DECISION NO. 11155.

GROWERS PACKING AND WAREHOUSING ASSOCIATION, INCORPORATED, A CORPORATION,

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1732.

Decided October 23, 1922.

Boyd Oliver, for Complainant and Pioneer Fruit Company.
Stanley Moore and *R. W. Palmer*, for Defendant.

BY THE COMMISSION.

OPINION ON PETITION FOR MODIFICATION OF PRIOR ORDER.

A public hearing on the petition of complainant for modification of prior order was held before Examiner Satterwhite October 7, 1922, in San Francisco.

Petitioner asks that Decision No. 10858 of the Commission in this matter be so modified as to remove the restriction of spotting cars within 75 feet of the Bosch avenue crossing in so far as it applied to the track serving the warehouses of the complainant or of the Pioneer Fruit Company. Inadequate showing was made at this hearing as to why this modification should be made. It appears that other forms of relief are available to the industry affected without jeopardizing the safety of the public in use of the Bosch avenue crossing and it appearing that the protection provided in the prior order of the Commission is the minimum protection to which the public is entitled in the use of this crossing and that the petition for modification of prior order should be denied.

ORDER ON PETITION FOR MODIFICATION OF PRIOR ORDER.

Growers Packing and Warehousing Association, Incorporated, having filed a petition for modification of prior order in the above entitled proceeding, a public hearing having been held, the Commission being

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apprised of the facts and the matter being under submission and ready for decision;

It is hereby ordered, that the petition for modification of prior order be and it is hereby denied.

Dated at San Francisco, California, this twenty-third day of October, 1922.

DECISION No. 11157.

IN THE MATTER OF THE APPLICATION OF MONTEREY COUNTY WATER COMPANY, A CORPORATION, FOR AN ORDER INCREASING ITS RATES AND CHARGES FOR WATER SERVICE IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA.

Application No. 7606.

Decided October 23, 1922.

RATES—WATER UTILITY—CONSUMER AGREEMENTS.—The Commission held that consumers having agreements with the utility regarding rates should bear their costs of service equally with all other consumers. It is evident, the Commission pointed out, that when the agreements were made the parties recognized that they were subject to public regulation.

Morrison, Dunne and Brobeck, by *E. S. Taylor,* for Applicant.

BY THE COMMISSION.

OPINION.

Applicant, Monterey County Water Company, is a public utility engaged in the business of distributing water for irrigation uses in Salinas Valley, Monterey County.

Allegations made by the utility are to the effect that the present rates in force have not been changed for twenty years, and that they are now inadequate, noncompensatory and unreasonable; wherefore an increase in rates is desired that will be fair and equitable for the service rendered.

A public hearing was held in this matter before Examiner Westover, t Salinas. Applicant's consumers were notified and given an opportunity to appear and be heard.

It appears that the company acquired this property in 1901, and has nce been diverting and distributing water for agricultural uses. Parts the system have been abandoned, and that portion now used consists about sixteen miles of main canal and laterals. Water is diverted m the Arroyo Seco about ten miles south of Soledad, the canal taking iortherly course.

There are no storage facilities on this system, and irrigation from the als is practiced only in the winter months. In general, one irrigation ad annually, with occasionally another limited one. Many consumers e sources of supply other than that furnished by applicant.

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Exhibits were presented showing the capital invested, operation and maintenance expenses, revenues earned and other data, by Mr. E. F. Halloran for the utility and by Mr. H. Monett for the Commission. There was little difference between the exhibits as regards the capital invested, and deducting for an unused portion of the canal we believe that the sum of $30,859 reasonably represents the investment in this system. A replacement annuity of $248 was included in Mr. Monett's report, computed by the 6 per cent sinking fund method.

An average of $3,080 per annum for the past four years for operation and maintenance expense is shown by applicant. It appears that some of the items and amounts making up this average are excessive in view of the service rendered, and others are not properly chargeable to operation expense. We believe that $2,770 per annum will provide for the proper operation and maintenance of this system.

The rates charged by this utility have been $1.50 per acre and have earned an average revenue per annum for the past four years of $2,930. The minimum was $1,854 in 1918, the maximum $3,866.25 in 1920, and $3,651.75 in 1921.

Basing the conclusion largely upon the amount of water served in 1920 and 1921, it is believed that the rate established in the following order will yield funds for proper maintenance and operation expense, a proper depreciation or replacement annuity, and provide in addition a sum applicable as return upon the capital invested which will be fair to applicant and its consumers.

A few consumers have agreements with this utility whereby they were to be protected against any increase in rates over $1.50, though provision was made that they should benefit, in case the board of supervisors, then the public regulatory body with jurisdiction over utilities of this kind, should lower the rates. It is evident that the contracting parties realized that they were subject to public regulation, and as these powers now rest with this Commission and have been exercised in like instances, this point need not be further elaborated. Such consumers should bear their costs of service equally with all others.

ORDER.

Monterey County Water Company having applied to the Railroad Commission for the establishment of fair and equitable rates for water delivered to its consumers, a public hearing having been held and the matter now being ready for decision:

It is hereby found as a fact that the rates heretofore charged by Monterey County Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates.

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And basing its order upon the foregoing finding of fact, and upon the ther statements of fact contained in the opinion preceding this order; *t is hereby ordered,* that Monterey County Water Company be and it ereby authorized to file with this Commission, within twenty (20) s from the date of this order, the following schedule of rates, said s to apply to all service rendered subsequent to December 1, 1922:

Water delivered to consumers, for each irrigation, per acre..... $2 00

t is hereby further ordered, that within thirty (30) days from the e of this order applicant shall file with this Commission, subject to acceptance and approval, rules and regulations governing its rela- s with its consumers.

Dated at San Francisco, California, this twenty-third day of October, 2.

DECISION NO. 11158.

W. H. MULL ET AL.

vs.

VIS A. AND PRUDENCE TURNER, OR THE TURNER WATER SYSTEM.

Case No. 1591.

Decided October 24, 1922.

ER UTILITY—ADVANCES BY CONSUMERS—CAPITAL ACCOUNT—REFUND.—Extenuating circumstances must exist and public interest demand it before the Commission will depart from its settled policy of refusing to place upon the public the burden of making to utilities advances of sums properly to be charged to capital account and then only when consumer could be assured of refund in reasonable time.

THE COMMISSION.

OPINION ON REHEARING.

his is a proceeding brought by W. H. Mull and sixteen other resi- s of what is known as the Clutter and Long Tract, near Bell, Los eles County, against Lewis A. Turner and Prudence Turner, owners small public utility water system.

public hearing of this case was held in Los Angeles on November 26, , before Examiner Williams, and the Commission issued its opinion order No. 10103 on February 17, 1922, in which opinion and order Commission found as a fact that the defendants had not rendered uate or satisfactory service to consumers on "South King street"; a larger main should there be installed, and that the public est demanded that meters be installed free of charge to the con- ers. The order directed the defendants to file with the Commission iled plans and specifications of such improvements as would be

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necessary to provide for adequate service, and, on approval thereof, to install such improvements. The order also directed defendants to install meters free of charge to consumers, and to refund any payments made by complainants for the installation of meters, at the rate of 10 per cent of the monthly water bill each month until entirely refunded. Further details covering the allegations of the parties and the findings of the Commission are to be found in said opinion and order. Application for rehearing was filed by defendants on the ground of newly discovered documentary evidence, and also on the ground that defendants' water supply had never been dedicated to public use. The said application was granted by the Commission, and a public hearing was held thereon in Los Angeles on September 26, 1922, before Examiner Williams. The evidence adduced at this rehearing showed that the Turners had not themselves purchased or supplied any meters, but that the same had in all instances been supplied by the landowner or the consumer. It was also made evident that whatever interest the owners of the Clutter and Long tract possessed in the distributing system in that tract, including any meters originally purchased by them, could be obtained by defendants for a mere nominal sum, and that the consumers who had furnished their own meters would be willing to turn the same over to the defendants if certain improvements in the service were made. Such a plan accords with the settled policy of the Commission to provide, as nearly as possible, for the ownership by a single person or company of all the agencies of production and distribution of a public utility service, rather than to have the ownership spread over a number of persons.

Defendants urged that, owing to the precarious financial condition of their plant, it would be impossible for them to install a four-inch pipe on King street and at the same time furnish all new meters. It was suggested by defendants, however, that if new consumers would advance the cost of such meters and service installation, they would refund such advances in monthly installments of 33⅓ per cent of the minimum monthly charge of $1.50, or 50 cents per month, until fully refunded. For convenience, it was agreed that the sum of $20 would be a reasonable amount for such advance, if the Commission should consider the same advisable.

While it is the settled policy of this Commission not to place upon the consumers of public utilities the burden of making advances of sums properly to be charged to capital account, nevertheless, there have been instances where, because of special circumstances, the rule has been relaxed, if the consumer could be assured of a refund of such advance within a reasonable time. This latter practice has only been allowed in cases where extenuating circumstances were present, and only where public interest demanded an exception to the general policy.

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In the present case, because of financial conditions, the owners of this small public utility appear to be unable at the present time to install certain necessary improvements through which adequate service may be had, and at the same time to carry the initial cost of meters for new consumers. It is our opinion that the public interest therefore requires in this particular instance a relaxation of the general principle above mentioned, although this should not be taken as an approval of this method, as a general practice, nor as a permanent policy for this particular water system.

ORDER.

Defendants in the above entitled matter having applied for a rehearing after decision by the Commission, and a public hearing having been held thereon, and the matter having been submitted;

It is hereby ordered, that the order of the Commission heretofore made in this matter (Decision No. 10103), be and the same is hereby vacated and annulled and the following order is hereby made, to wit:

(1) Defendants are hereby directed to proceed diligently to procure from those persons now holding title to the same the title to all the agencies used in the distribution of the water of their public utility water system, including all meters and service connections;

(2) Defendants are also hereby directed to file with this Commission within thirty (30) days after the date of this order detailed plans and specifications for such improvements as are necessary to make possible adequate water service to consumers, including a 4-inch pipe on South King street to replace the 1½-inch pipe now used, and an adequate provision for flushing the same at its "dead end";

(3) Upon the approval by the Commission of said plans and specifications defendants shall begin at once and proceed diligently with the work of installing said improvements, reporting progress to the Commission in writing at intervals of ten (10) days until completion;

(4) Defendants are further directed to file forthwith with this Commission a revised schedule of rules and regulations to include a regulation that each new consumer shall advance the sum of $20 prior to receiving service to cover cost of meter and service installation, the same to be refunded in monthly installments of fifty cents ($0.50) each as a credit upon monthly bills, until the full sum is refunded.

Dated at San Francisco, California, this twenty-fourth day of October, 1922.

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DECISION No. 11160.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF ONE MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND FOUR HUNDRED SIXTEEN DOLLARS AND TO SELL THE SAME.

Supplemental Application No. 3, under
Application No. 7531.
Decided October 24, 1922.

LeRoy M. Edwards, for Applicant.

BENEDICT, *Commissioner.*

THIRD SUPPLEMENTAL ORDER.

Whereas, The Railroad Commission by Decision No. 10101, dated February 17, 1922, authorized Southern Counties Gas Company of California to issue $1,498,416 face value of first mortgage 5½ per cent bonds due May 1, 1936, subject to the condition, among others, that $1,132,416 of such bonds be not sold or otherwise disposed of by applicant, except as authorized by the Commission; and

Whereas, The Commission by former orders in this proceeding has authorized the sale of $690,000 of said $1,132,416 of bonds; and

Whereas, Applicant reports in its third supplemental application in this proceeding and in exhibits filed in connection therewith that it has expended on or before September 30, 1922, for extensions, additions and betterments to its plants and properties the sum of $483,134.31, none of which has been financed through the sale of bonds; and

Whereas, Applicant requests permission to sell at not less than ninety-two per cent of their par value and accrued interest $386,000 of said $1,132,416 of bonds for the purpose of reimbursing, in part, its treasury on account of said expenditures; and

A public hearing having been held and it appearing that the money, property or labor to be procured or paid for by such sale is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to sell, at not less than 92 per cent of their face value, plus accrued interest, $386,000 of the first mortgage 5½ per cent bonds which the Commission authorized to be issued by Decision No. 10101, dated February 17, 1922, and to use the proceeds to finance, in part, the cost of extensions, additions and betterments installed on or before September 30, 1922, and referred to in this order and in the third supplemental application filed in the above entitled matter, and through such financing pay current indebtedness.

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It is hereby further ordered, that the order in Decision No. 10101, dated February 17, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of October, 1922.

DECISION No. 11161.

ROSENBERG BROS. AND COMPANY, GROWERS RICE MILLING COMPANY, C. E. GROSJEAN RICE MILLING COMPANY, SACRAMENTO VALLEY RICE MILLING COMPANY, THE NATIONAL RICE MILLS, CALIFORNIA STATE RICE MILLING COMPANY

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, SACRAMENTO NORTHERN RAILROAD.

Case No. 1744.

Decided October 24, 1922.

BY THE COMMISSION.

ORDER ON PETITION FOR REHEARING.

The Commission having under consideration the petition for rehearing filed by the defendant carriers in the above entitled proceeding;

It is ordered, that the petition for rehearing be and it is hereby denied, and that the case be reopened to enable the complainants to make the necessary proof of shipments so that the Commission may determine to whom reparation shall be awarded, if any, on the shipments here involved and in what amounts.

It is further ordered, that the case be set for such further hearing before Examiner Eddy at San Francisco on Monday, November 27, 1922, at 10.00 a.m.

It is further ordered, that the effective date of the order heretofore made herein on the twenty-third day of August, 1922, Decision No. 10895, subsequently extended to the twenty-third day of October, 1922, be and the same is hereby further extended to the sixth day of November, 1922, on or before which date tariffs shall be filed making effective rates on paddy rice, carloads, on the basis prescribed in our order of August 23, 1922.

Dated at San Francisco, California, this twenty-fourth day of October, 1922.

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DECISION NO. 11170.

IN THE MATTER OF THE APPLICATION OF ELK GROVE MUTUAL TELEPHONE ASSOCIATION FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING AN INCREASE IN RATES FOR TELEPHONE SERVICE.

Application No. 7893.

Decided October 27, 1922.

H. D. Owen, President, and *D. E. Ronk*, Secretary, for Elk Grove Mutual Telephone Association.

L. M. Brown, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

Elk Grove Mutual Telephone Association, applicant in this proceeding, operates a small telephone system serving the town of Elk Grove and vicinity, Sacramento County. It desires to increase its rates for the purpose of obtaining revenues sufficient to enable it to maintain connecting lines and telephones which it does not now maintain. A public hearing was held in Sacramento before Examiner Westover.

Applicant owns and maintains only its central office facilities and the main pole and wire lines within a radius of one-half mile from its central office. Its subscribers own and are responsible for the maintenance of all connecting lines and telephones within the half mile radius and all pole and wire lines and telephones outside of this radius. It represents that the subscribers do not properly maintain their lines and telephones and that it is therefore unable to render efficient service. It states that a meeting of its members and subscribers was held on March 6, 1922, when it was agreed by a majority of those attending that an annual payment, estimated to be sufficient to provide proper maintenance, should be paid by each to the association, and that it should then assume responsibility for the maintenance of all lines and telephones except in those cases in which subscribers object to the annual payment.

The rates at present in effect are as follows:

	Business service	Residence service
Inside one-half mile radius:		
Main lines, per year	$10 00	$8 00
Five-party lines, per year	8 00	6 00
Outside one-half mile radius:		
Main lines, per year	9 00	9 00
Party lines, per year	9 00	4 50

Applicant proposes a rate of $12 per year for all subscribers. The proposed rate is designed only to produce an amount of revenue, in

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addition to the present revenue, sufficient to meet the estimated cost of additional maintenance which applicant proposes to assume. The rate is so designed for the reason that applicant desires only sufficient revenue to meet the necessary costs of operation.

From an estimate of the probable cost of maintenance, inclusive of depreciation, made by an assistant engineer of the Commission, it appears that the rate proposed by applicant will produce additional revenue slightly less than the required amount. It will be noted from the schedule of present rates appearing above, that the applicant provides different classes of service. The rate proposed by applicant is the same for all subscribers, regardless of class of service, and, if authorized, would result in discrimination. To overcome this objection, the following rates are suggested:

	Business service	Residence service
Inside one-half mile radius:		
Main lines, per year	$18 00	$15 00
Five-party lines, per year	15 00	12 00
Outside one-half mile radius:		
*Main (1-party) lines, per year	18 00	15 00
Party lines, per year	15 00	12 00

*Plus 50 cents per month per quarter mile or fraction thereof, measured air line from nearest point in one-half mile radius to subscriber's premises.

These rates will produce in additional annual revenue approximately $2,340, an amount approximately equal to the estimated additional cost of maintenance, plus depreciation annuity.

It appears to have been a part of this association's original plan of organization to provide telephone service to its own members at actual cost of operation. As a result of its efforts to operate under this plan, its plant has not been properly maintained and its service has become inefficient and inadequate. Any rate now authorized should provide also for depreciation. This the rates set forth in the order are designed to do. The association should be completely reorganized, and upon reorganization such rates should be established as will enable it to provide adequate and efficient service to all applying for service in its territory, whether stockholders or not.

ORDER.

Application having been filed with the Railroad Commission by Elk Grove Mutual Telephone Association for an order authorizing an increase in rates for telephone service, a public hearing having been held, the Commission being fully apprised, and the matter having been submitted;

It is hereby ordered, that Elk Grove Mutual Telephone Association be and it is hereby authorized to file with the Railroad Commission within

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thirty (30) days from the date hereof the following schedule of rates, to wit:

Inside one-half mile radius from central office:	Business service	Residence service
Main (1-party) lines, per year	$18 00	$15 00
Five-party lines, per year	15 00	12 00
Outside one-half mile radius from central office:		
*Main (1-party) lines, per year	18 00	15 00
Party lines, per year	15 00	12 00

*Plus a charge of 50 cents per month per quarter mile or fraction thereof, measured in an air line, from the nearest point in a radius of one-half mile from the central office to subscriber's premises.

The rates herein authorized may be made and become effective upon approval of the schedule herein authorized to be filed upon condition that Elk Grove Mutual Telephone Association shall thereafter maintain, at its sole cost and expense, all of the lines and equipment necessary and useful in serving its subscribers and patrons, irrespective of the ownership of said lines and equipment.

Dated at San Francisco, California, this twenty-seventh day of October, 1922.

DECISION No. 11172.

IN THE MATTER OF THE APPLICATION OF H. H. WEBB TRANSFER AND STORAGE COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION GRANTING PERMISSION TO ESTABLISH ON ONE DAY'S NOTICE CERTAIN RATES BETWEEN LOS ANGELES, AND VENICE, OCEAN PARK AND SANTA MONICA.

Application No. 8007.

Decided October 27, 1922.

H. H. Webb, in propria persona.
L. A. Monroe, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the H. H. Webb Transfer and Storage Company applied, under Rules 10 and 11 of General Order No. 51 of the Railroad Commission, for authority to establish on one day's notice rates between Los Angeles, and Venice, Ocean Park and Santa Monica, as follows:

Rates in Cents per 100 Pounds Between Los Angeles, and Venice, Ocean Park and Santa Monica.

General merchandise, heavy	$0 20	
Heavy hardware	20	
Plumbing goods, other than bath tubs	25	
Enamel bath tubs	35	
Household goods, crated	50	
Trunks, each	1 00	
Suit cases, with baggage, each	35	
Suit cases, single, each	50	
Household furniture, minimum charge, depot to store door	35	
Household furniture, minimum charge, store door to store door	50	
Household furniture, moving jobs by contract (includes one man other than driver)	3 50	per hour
Extra help where required to load or unload	75	per hour

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The applicant set forth in his application that he was not advised that authority must be granted by the Railroad Commission to make changes in rates, and finding he was not earning sufficient revenue "to cover cost of operation" and in ignorance of the law, established the rates proposed. The applicant stated further, however, that as soon as he was apprised that no increase in rates could be made without authority of the Railroad Commission he immediately made application for authority to establish the rates herein set forth.

The applicant, in addition to conducting a transportation service between Los Angeles, and Venice, Ocean Park and Santa Monica, also operates a local express service in the three beach cities and conducts a warehouse business. However, his transportation business is the only one coming within the jurisdiction of the Railroad Commission and is a comparatively small part of his entire business.

At the hearing the applicant was asked to identify the annual report of his company submitted to the Railroad Commission for the year 1921. The applicant's witness identified that report, but explained that the figures contained therein included the warehouse and local express business, therefore were of no value, so far as this Commission is concerned, in reaching a conclusion as to the reasonableness of the proposed rates.

Exhibits A, B and C attached to and made a part of the application in this proceeding, indicate that the proposed rates are not unreasonable per se, and a check of the traffic for a period of one week, May 15 to 20, inclusive, 1922, shows there would be an increase of $16.33 in the revenue accruing under the rates proposed over the revenue that would accrue under the published rates.

Assuming that the week selected was representative, there would be an estimated increase accruing under the proposed rates as compared to the published rates, for one year, of $849.16.

Exhibit C, attachd to and made a part of the application and verified by the applicant's witness, shows operating revenues and expenses for four months ending April 30, 1922, resulting in a net revenue for the four months, of $327.25. Assuming that these figures are representative and estimating the same for a period of one year would result in a net earning of $981.75. Also shown in Exhibit C is an item of $8,950, investment in two trucks and office furniture, and depreciation is set up in the account at 20 per cent per year.

It will therefore be seen that the present net revenue of this applicant is not unreasonable, and the Commission is of the opinion that the application should be granted.

The applicant will be permitted to establish the rates proposed in his application on one day's notice and will be required to furnish the Commission a monthly statement of revenues and expenses from May to September, 1922, inclusive, within ten days from the date of this

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order, and will be further required to furnish a monthly statement of revenues and expenses for October, November, and December, 1922, such monthly reports to be in the hands of the Commission not later than the fifteenth day of the following month. If these reports show that the rates proposed are not unreasonable, the rates authorized herein may be made permanent.

ORDER.

It is hereby ordered, that this application, H. H. Webb Transfer and Storage Company, should be and it is hereby granted.

It is hereby further ordered, that the applicant H. H. Webb Transfer and Storage Company, be and is hereby authorized to establish the rates proposed in the application on one day's notice.

It is hereby further ordered, that H. H. Webb Transfer and Storage Company be and is hereby directed to furnish the Commission a monthly statement of revenues and expenses from May to September, 1922, inclusive, within ten (10) days from the date of this order and said applicant will be further required to furnish a monthly statement of revenues and expenses for the months of September, October, and November, 1922, such monthly reports to be in the hands of the Commission not later than the fifteenth day of the succeeding month.

Dated at San Francisco, California, this twenty-seventh day of October, 1922.

DECISION NO. 11173.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRING OPERATION OF AUTO STAGE LINE IN CHULA VISTA-NATIONAL CITY, CALIFORNIA.

Application No. 8170.

Decided October 27, 1922.

Read G. Dilworth, for Applicant.
Ray M. Harris, for National City.
F. V. Andrews, for City of Chula Vista.
Warren E. Libby, for Sutherland's Tiajuana Stages.

BY THE COMMISSION.

OPINION.

The applicant herein proposes to operate an automobile bus line for the carriage of passengers betwen Eighth and National streets, National City, and Third avenue, Chula Vista, via the Sweetwater High School, a distance of 4.7 miles. A canvass of the territory to be covered by the proposed line indicates that 193 families, comprising approximately 800 people, will be served. The proposed service is to be an extension of

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and an adjunct to the service now being rendered by the street car line owned by the applicant. The busses will run from 5 a.m. to midnight and will connect with the electric cars. Transfers will be issued between the bus line and the street cars and the fares charged will be the same as are now charged by the street car company for similar hauls in that territory. In other words the street car company, through the use of several automobile busses, recently purchased, is extending its operations into a new territory not now reached by any public transportation facility.

At the public hearing held before Examiner Eddy at San Diego on September 29th nearly 100 persons were present and no opposition to the granting of the certificate was made known. The city attorneys of National City and Chula Vista stated that after conferences with the street car officials they were entirely satisfied with the proposed arrangements.

The facts of record indicate that public convenience and necessity require the operation by the applicant of an automobile bus line between Eighth and National streets, National City, and Third avenue, Chula Vista, via the Sweetwater High School, and an order will be entered accordingly.

ORDER.

A public hearing having been held, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by San Diego Electric Railway Company, a corporation, of an automobile stage line as a common carrier of passengers between Eighth and National streets, National City, and Third avenue, Chula Vista, via the Sweetwater High School; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. Applicant herein shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file within a period of not to exceed twenty (20) days from date hereof tariff of rates, such rates to be identical with those as shown in applicant's local passenger tariff No. 4 (C. R. C. No. 23 and C. R. C. No. 2), dated December 10, 1919, now on file with the Commission, and shall file time schedule in accordance with applicant's Exhibit "B" attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

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2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of October, 1922.

DECISION No. 11177.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 7808.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8184.

Decided October 28, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The California-Oregon Power Company by Decision No. 10506, dated May 26, 1922, in Application No. 7808, was authorized to issue and sell, at not less than 90, $200,000 par value of its 7 per cent cumulative preferred stock; and by Decision No. 10952, dated September 2, 1922, in Application No. 8184, it was authorized to issue and sell, at not less than 92, $500,000 par value of its 7 per cent cumulative preferred stock.

The decisions of the Commission require that all proceeds other than an amount equivalent to not exceeding $2 per share of stock sold, which amount may be used to pay commissions and expenses incidental to the sale of the stock, be placed in a special account and withdrawn only as authorized by the Commission. By Decision No. 11060, dated October 5, 1922, the Commission authorized applicant to expend $42,672.20 of the stock proceeds.

In a supplemental petition filed in the above entitled matters, applicant reports that during August, 1922, it expended for construction purposes the sum of $246,479.86, of which $135,931.90 was expended in

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building the high tension transmission line from Prospect, Oregon, to Springfield, Oregon, to connect with the Mountain States Power Company; $79,643.56 in raising the Copco dam, enlarging the power house and installing the second generating unit; $11,780.48 in laying new water mains Klamath Falls water system; $7,533.12 in constructing Link River dam and providing for storage in Upper Klamath Lake, and the remainder, $11,590.80 for general construction purposes. Applicant requests permission to use not exceeding $246,479.86 of the proceeds which it has realized or will realize from the sale of stock, the issue of which has heretofore been authorized by the Commission, to finance its August, 1922, construction expenditures. On October 5th, applicant had $60,120.80 obtained from the sale of stock on deposit. It desires to use this money for the purpose mentioned as well as stock proceeds which it will realize subsequent to October 5th.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore

It is hereby ordered, that the order in Decision No. 10506, dated May 26, 1922, and the order in Decision No. 10952, dated September 2, 1922, be and they are hereby modified so as to permit The California-Oregon Power Company to use not exceeding $246,479.86 obtained, or which it will obtain, from the sale of stock, the issue of which is authorized by said decision, to finance the August, 1922, construction expenditures reported in "Exhibit A," attached to the second supplemental petition filed in the above entitled matters, said $246,479.86 to include the $60,120.80 referred to in this decision.

It is hereby further ordered, that the orders in Decision No. 10506, dated May 26, 1922, and Decision No. 10952, dated September 2, 1922, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-eighth day of October, 1922.

DECISION No. 11179.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING IT TO BUY CERTAIN GAS DISTRIBUTING MAINS FROM THE CITY OF GLENDALE, CALIFORNIA.

Application No. 7992.

Decided October 30, 1922.

BY THE COMMISSION.

ORDER.

Southern California Gas Company has asked permission to purchase from the city of Glendale certain gas distributing mains which the city

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proposes to install within that portion of its confines known as Verdugo Woodlands at an estimated cost of $48,750.

This purchase and transfer is to be effected in accordance with the terms of a certain agreement, dated May 17, 1922, a copy of which is attached to and made a part of this application and designated as Exhibit B.

In general, this agreement provides that the city of Glendale shall install this gas distribution system subject to the inspection and approval of a representative of Southern California Gas Company; that upon completion of the same and the execution and delivery of a satisfactory conveyance, Southern California Gas Company will pay to the city an amount equal to the average cost of one hundred (100) feet of these gas mains for each applicant ready and willing to be connected at the time of conveyance, and will upon the first day of January, 1923, and at the end of every six (6) months thereafter until the whole cost of installation has been paid, pay a similar amount for each additional consumer connected subsequent to the making of the next preceding cash payment, and that if at the end of ten (10) years from the date of conveyance any balance of the initial cost shall remain due and unpaid then said balance shall be paid in full. It also provides that Southern California Gas Company shall, at its own expense, install a suitable connecting line from some convenient point in its present system to the boundary of the district to be formed and served by means of the distribution system which the city proposes to install.

This agreement, in general, is in conformity with the rules governing gas main extensions approved for this company, and the Commission is of the opinion that this request should be granted; therefore

It is hereby ordered, that Southern California Gas Company be and it is hereby authorized to purchase from the city of Glendale at the estimated price of $48,750 and pay for the same in the manner above outlined and more specifically set forth in that certain agreement, dated May 17, 1922, filed in this proceeding as Exhibit "B," certain gas distributing mains to be installed by the city of Glendale in that portion of its confines known as Verdugo Woodlands, in accordance with the terms of the agreement above referred to, the mains being more particularly described as follows:

Verdugo road north from Sycamore Canyon road to Canada boulevard, and north on Canada boulevard to Santa Maria avenue 14,930 feet 4" wrought iron main. Verdugo road north, from Canada boulevard to north line of Lot No. 19, Tract No. 4787, 8530 feet 2" main. East in alley south of Oakwood avenue 3000 feet 2" main. Willow drive east and north from Canada boulevard to Santa Maria avenue 525 feet 2" main. Santa Maria avenue west from Canada boulevard 945 feet 2" main. San Raphael avenue west from Canada boulevard 1110 feet 2" main. Ramona avenue west from Canada boulevard 1200 feet 2" main. Sombra drive east from Canada boulevard 367 feet 2" main. Santa Paula place east from Canada boulevard 321 feet 2" main. Glorietta avenue east from Canada boulevard to Verdugo road and tie-in 1140 feet 2" main. Elder lane north from Glorietta avenue 130 feet

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2" main. Woodland lane east from Canada boulevard to Glorietta avenue and tie-in 1075 feet 2" main. Hermosita drive north from 175 feet south of El Rito avenue to 250 feet north of Glorietta avenue 1750 feet 2" main. Glorietta avenue east from Hermosita drive and tie-in to 4" on Canada boulevard 1025 feet 2" main. Don Carlos avenue east from Hermosita drive to Verdugo road and tie-in 1735 feet 2" main. Del Valle avenue east from Hermosita drive to Verdugo road and tie-in 1900 feet 2" main. El Rito avenue west from Hermosita drive to Alturas drive 1075 feet 2" main. Rustic lane north from Don Carlos avenue to Glorietta avenue and tie-in 715 feet 2" main. El Rito avenue east from Hermosita drive to Verdugo road and tie-in 2165 feet 2" main. Letita place west from Hermosita drive 160 feet 2" main. Fremont place north from El Rito avenue 125 feet 2" main. Alturas drive west from El Rito avenue 310 feet 2" main. Opechee way west from Verdugo road to Andenes drive 4780 feet 2" main. Hermosita drive north from Opechee way to Andenes drive 200 feet 2" main. Andenes drive west from Hermosita drive to Alturas drive 1400 feet 2" main. Capistrano avenue east from Andenes drive to Canada boulevard and tie-in to 4" main 2480 feet 2" main. Selvas place west from Opechee way 230 feet 2" main. San Luis Rey drive west from Opechee way 870 feet 2" main. Avenue "A" east from Bonita drive to Verdugo road and tie-in 1800 feet 2" main. Wabasso way south and east from Opechee way to Verdugo road and tie-in 3400 feet 2" main. Hillside drive (Bena way) south and east from Wabasso way to 460 feet east of Canada boulevard 4000 feet 2" main, Barbara way north from Wabasso way 675 feet 2" main. Sierra place north from Hillside drive (Bena way) to Wabasso way and tie-in 390 feet 2" main. Colina drive south from Hillside drive to Alturas drive 560 feet 2" main. Alturas drive south from Colina drive 680 feet 2" main. Hiawatha drive east from Canada boulevard 410 feet 2" main. Colina drive south and west from Hiawatha drive a total distance of 2240 feet 2" main. Niodrara drive north from Colina drive to Hillside drive and tie-in 1050 feet 2" main. Rio street east from Niodrára drive 125 feet 2" main, making a total of 14,930 feet of 4" wrought iron welded main and 54,583 feet 2" wrought iron screw pipe main, plus 697 feet for the difference between the horizontal and the slope making a grand total of 70,210 feet of main.

Dated at San Francisco, California, this thirtieth day of October, 1922.

DECISION No. 11180.

IN THE MATTER OF THE APPLICATION OF FORT BRAGG ELECTRIC COMPANY FOR PERMISSION TO CHANGE ITS SCHEDULES OF RATES.

Application No. 8098.

Decided October 30, 1922.

RATES—ELECTRIC UTILITY—METERED SERVICE.—In granting applicant's petition to substitute meter for flat rates, the Commission said the change should result in improvement of service and should not result in increased net revenue to the company. Flat rates are declared to be obsolete and to offer no incentive to the consumer to use the service economically.

F. C. White, for Applicant.
Leonard Stone, for City of Fort Bragg.

BY THE COMMISSION.

OPINION.

Fort Bragg Electric Company in the above application requests that this Commission grant it permission to change its rates from those now in effect to certain proposed metered rates as shown in its Exhibit "B." A hearing in this matter was held in the city of Fort Bragg on October

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19, 1922, before Examiner Eddy at which time evidence was taken and the matter submitted. At present all electric service rendered by Fort Bragg Electric Company is under flat rates, except a small portion rendered in the business district of the city where metered rates for power service are in effect.

That service rendered under flat rates is available only during a portion of the day from about 4.00 p.m. to 9.00 a.m. during the winter months and from about 6.00 p.m. to 7.30 a.m. during the summer months. Under the proposed metered rates applicant will render continuous twenty-four hour service to all consumers.

Applicant stated that it was not intended that the proposed change in rates should result in an increase in the net revenue to the company.

Applicant, in the operation of its business, purchases electric energy from the Union Lumber Company. It renders electric service to approximately eight hundred consumers and also serves the city of Fort Bragg with street lighting service.

The present rates now in effect for service rendered by applicant are obsolete as to form. Under the flat rates there is nothing to induce the consumer to use the service economically and as a result many lights are never turned off. There is no question but that the substitution of meter rates will result in an improvement of the service.

The meter rates proposed by applicant, in so far as they apply to domestic and commercial lighting service and to general power service, appear to be reasonable and the application of these rates should not result in any material change in the net revenue to the company.

Applicant proposes to replace existing street lighting service with a more modern system using smaller but more efficient lamps resulting in an increased lighting of the city streets. Applicant further proposes to supply this service under its proposed general lighting Schedule No. 1, which assumes that the consumer owns a certain portion of the system and will furnish lamps and globes as required. In general, most satisfactory results are obtained when the company owns the entire lighting system, except the lamps and globes, which may be owned and maintained either by the company or by the consumer. A satisfactory type of rate to meet such conditions is a fixed monthly charge varying with the size of lamp and number of annual burning hours. Rates for street lighting service will be fixed on this basis.

Meters have already been installed on the entire system. Before meter rates are made effective applicant should render to each consumer a statement showing the consumption of energy and amount of the bill in comparison with the present flat rate charge in order that the consumer will be fully informed regarding the application of the new rates.

It appears that the substitution of meter rates hereinafter fixed, in place of the present rates will result in improved service to the con-

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sumers of Fort Bragg Electric Company and that these new rates should not return applicant a net revenue in excess of that which it is now receiving.

ORDER.

Fort Bragg Electric Company having applied to the Railroad Commission of the State of California for authority to cancel its present rates and to make effective certain metered rates as set forth in its Exhibit "B," a hearing having been held and the matter being submitted and now ready for decision;

The Railroad Commission hereby finds as a fact that Fort Bragg Electric Company should render continuous electric service and that for such service the rates and charges herein set forth are just and reasonable rates and charges.

Basing its order on the foregoing finding of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Fort Bragg Electric Company

(1) Withdraw and cancel its present schedules of electric rates as of November 30, 1922.

(2) Charge and collect for electric service rendered on and after December 1, 1922, the following schedules of rates:

SCHEDULE L-1.

General lighting service.

Applicable to general domestic and commercial lighting service, cooking and heating service for installations of 4 kilowatts or less, to power installations of 5 horsepower or less, and to combination service.

Territory.

Entire territory served.

Rate.	Within the corporate limits of Fort Bragg	Outside the corporate limits of Fort Bragg
First 30 kilowatt hours per meter per month	10 cents	11 cents
Next 170 kilowatt hours per meter per month	7 cents	8 cents
Next 300 kilowatt hours per meter per month	5 cents	6 cents
Over 500 kilowatt hours per meter per month	4 cents	5 cents

Minimum charge.

(a) Lighting service	$1.25 per meter per month.
(b) Cooking and/or heating service	$1.25 per kilowatt of active connected load per meter per month, but not less than $2.50 per month.
(c) Power service	$1.00 per horsepower of active connected load per month, but not less than $2.50 per month.
(d) Combination lighting, heating, cooking and/or power service	The total monthly charge will be the sum of the following charges for such service as rendered: $1.25 for lighting, $1.25 per kilowatt of active connected heating and cooking load and $1 per horsepower of active connected power load, but in no case less than $2.50.

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Special conditions.

(a) Continuous service will be supplied under the above rates.

(b) Connected load is considered as the name plate rating of all heating, cooking, and power apparatus, permanently connected, and which may be connected at any time. The lighting load, including lamp socket devices, such as flat irons, toasters, etc., will not be considered as part of the connected load when determining minimum charges.

SCHEDULE L-2.

Street and highway lighting service.

Applicable to service to series incandescent street lighting installations using bracket or center suspension construction where the company owns and installs the entire equipment. Lamps and globes to be owned, installed and maintained by company or consumer as specified below.

Territory.

Within the city of Fort Bragg.

Rate.

All night service, lamp and globe replacements and renewals to be provided by consumer:

Size of lamp		Monthly charge
66 watts	100 candlepower	$1 25 per lamp
243 watts	400 candlepower	2 50 per lamp

Special conditions.

(1) The above rates apply to all night service assumed as 4000 hours per year.

(2) When consumer desires the company to provide lamp and globe inspection, maintenance, replacements and renewals then the following charges will be added to the above monthly charges:

Size of lamp		Maintenance charge
66 watts	100 candlepower	$0 50 per lamp per month
243 watts	400 candlepower	1 50 per lamp per month

SCHEDULE P-1.

General power service.

Applicable to general power service. General heating and cooking service may also receive service under this schedule.

Territory.

Entire territory served.

Rate.	*Consumption.*	*Rate.*
First	100 kilowatt hours per month	5 cents per kilowatt hour
Next	200 kilowatt hours per month	4 cents per kilowatt hour
Next	700 kilowatt hours per month	3 cents per kilowatt hour
Next	4,000 kilowatt hours per month	2.5 cents per kilowatt hour
Over	5,000 kilowatt hours per month (see special conditions below.)	

Minimum charge.

(a) Inside corporate limits of Fort Bragg.

(1) General power service——$1.00 per horsepower of active connected load per month but not less than $5 per month.

(2) Heating and cooking service—$1.25 per kilowatt of active connected load per month, but not less than $5 per month.

(b) Outside corporate limits of Fort Bragg.

(1) General power service——$12 per horsepower of active connected load per year, but not less than $60 per year.

(2) Heating and cooking service—$15 per kilowatt of active connected load, but not less than $60 per year.

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Special conditions.

(a) Continuous service will be supplied under this schedule.

(b) As the facilities of the company are not large enough to supply any sudden extraordinary, or abnormal growth, or increase of its business, service to consumptions of over 5000 kilowatt hours per month will be made only on special application and under special terms and conditions as may be accepted and approved by the parties thereto and the Railroad Commission of the State of California.

(c) Power installations of less than 5 horsepower may obtain service under this schedule by guaranteeing a minimum charge of $5 per horsepower per month or $60 per year, depending upon the location of the installation.

Heating and/or cooking installations of 4 kilowatts or less may obtain service under this schedule by guaranteeing a minimum charge of $5 per month or $60 per year, depending upon the location of the installation.

(d) Connected load is considered as the name plate rating of all heating, cooking and power apparatus, permanently connected and which may be connected at any time.

It is hereby further ordered, that Fort Bragg Electric Company

(1) Install and place in service on or before October 31, 1922, on each then existing service a meter or meters for the registration of electric energy as may be required.

(2) Render to each consumer a statement subsequent to November 1, 1922, but prior to November 10, 1922, showing the consumption of electric energy for the preceding monthly billing period and the resulting charges under the present rates herein authorized.

(3) File with the Railroad Commission on or before November 20, 1922, a copy of the information submitted to each consumer under the last preceding provision (2).

(4) File with the Railroad Commission on or before November 20, 1922, the schedule of electric rates herein authorized.

(5) File with this Commission on or before the twentieth of each month, beginning with the month of December until advised by this Commission otherwise, a statement showing the kilowatt hour consumption and charge applicable to the service rendered during the preceding month for each consumer served.

Dated at San Francisco, California, this thirtieth day of October, 1922.

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DECISION No. 11181.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY TO CONSTRUCT ITS LINE OF RAILROAD ACROSS TWENTY-FIVE STREETS AND PUBLIC HIGHWAYS AND THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE CONSTRUCTION OF ITS PROPOSED BRANCH LINE TO FULLERTON.

Application No. 2987.

Decided October 30, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Los Angeles and Salt Lake Railroad Company, a corporation, having on September 16, 1922, filed its second supplemental application in the above entitled matter for permission to construct its branch line of railroad across certain public highways in the city of Fullerton and across the right of way and tracks of The Atchison, Topeka and Santa Fe Railway Company, as hereinafter indicated, and it appearing to the Commission that the necessary franchise has been received from the city of Fullerton; that said franchise (Ordinance No. 276) amends Ordinance No. 199, filed as Exhibit "K," by changing the route of said railroad through the city of Fullerton; that, therefor, previous orders in this matter should be amended to correspond with the new route, and it further appearing from the evidence in the application of the city of Fullerton for a rehearing relative to the construction at grade of Los Angeles and Salt Lake Railroad across South Spadra road within the city of Fullerton and decided by Decision No. 10720, that this is not a case in which a public hearing is necessary; that The Atchison, Topeka and Santa Fe Railway Company has, in writing, consented to the crossing of its right of way and tracks at grade; that it is not reasonable nor practicable to avoid grade crossings of public highways hereinafter mentioned and with said tracks of said The Atchison, Topeka and Santa Fe Railway Company and this application should be granted subject to the conditions hereinafter specified;

It is hereby ordered, that permission be and it is hereby granted Los Angeles and Salt Lake Railroad Company to construct a branch line track at grade across the following public highways in the city of Fullerton, County of Orange:

West Commonwealth avenue, South Nicholas avenue, South Highland avenue, Malden avenue, South Spadra road, alley between South Spadra road and Pomona avenue, Pomona avenue, South Harvard avenue, South Lawrence avenue,

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as shown on Exhibit "A" attached to said second supplemental application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said public highways now graded, with grades of approach not exceeding four (4) per cent; except at said crossing of South Spadra road, where the top of the rails shall be laid flush with the surface of the street; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) For the protection of said crossings of South Nicholas avenue and South Highland avenue automatic flagmen shall be installed at the expense of applicant; said automatic flagmen to be of a type and installed in accordance with plans or data approved by the Commission. The maintenance of said automatic flagmen shall be borne by applicant.

(4) For the protection of said crossings of South Spadra road and West Commonwealth avenue crossing gates shall be installed; said crossing gates to be of a type and installed in accordance with plans or data approved by the Commission. The cost of installing said crossing gates shall be borne by the applicant. The cost of maintaining said crossing gates at the crossing of South Spadra road shall be borne by applicant and at the crossing of said West Commonwealth avenue shall be borne one-half by applicant and one-half by The Atchison, Topeka and Santa Fe Railway Company.

It is hereby further ordered, that permission be and it is hereby granted Los Angeles and Salt Lake Railroad Company to construct its line of railroad at grade across the main line tracks of The Atchison, Topeka and Santa Fe Railway Company at applicant's engineer station 818 plus 67.8, near West Commonwealth avenue, as shown on Exhibit "A" attached to said second supplemental application.

It is hereby further ordered, that for the protection of the crossing of the tracks of The Atchison, Topeka and Santa Fe Railway Company applicant shall, at the same time said crossing is installed, install a first-class interlocking switch and signal system; said interlocking switch and signal system to be installed in accordance with Commission's General Order No. 33, except detector circuits shall be installed in addition to, or in lieu of, detector bars. The expense of installing said interlocking switch and signal system shall be divided, both as to expense of construction and expense of maintenance, as provided in Exhibit "C" attached to second supplemental application.

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It is hereby further ordered, that Decision No. 4516 be and it is hereby rescinded as to the crossings of South Nicholas avenue, South Highland avenue and South Spadra road and to the overgrade crossing of the main line tracks of The Atchison, Topeka and Santa Fe Railway Company at engineer station 810 plus 17.2, all in the city of Fullerton.

It is hereby further ordered, that Decision No. 10417 be and it is hereby rescinded as to the crossings of an unnamed road at engineer station 719 plus 73, South Nicholas avenue, South Highland avenue and South Spadra road, all in the city of Fullerton.

It is hereby further ordered, that the authorization herein granted is subject to the following further conditions:

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(6) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this thirtieth day of October, 1922.

DECISION No. 11182.

IN THE MATTER OF THE JOINT APPLICATION OF THE SACRAMENTO VALLEY SUGAR COMPANY, A CORPORATION, AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE ELECTRIC PROPERTIES AND BUSINESS HEREIN DESCRIBED.

Application No. 8320.

Decided October 30, 1922.

BY THE COMMISSION.

ORDER.

Sacramento Valley Sugar Company has asked permission to sell to Pacific Gas and Electric Company, for the sum of $2,000, an electric distribution system hereafter particularly described, and to cease furnishing electric service in the territory now supplied by this system. Pacific Gas and Electric Company has joined in this request.

Sacramento Valley Sugar Company, by means of this distribution system, supplied electric service to eight consumers in adjoining portions

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of Tehama and Butte counties. The supplying of this service is purely incidental to the company's principal business of producing and refining sugar.

All energy thus distributed is purchased from Pacific Gas and Electric Company and supplied from its Hamilton City substation at which point its system is connected to the system which Sacramento Valley Sugar Company proposes to sell.

The Commission has considered these facts and is of the opinion that the interests of the consumers of Sacramento Valley Sugar Company and of the public can be better served by Pacific Gas and Electric Company with its better and more adequate facilities, and that this request should be granted; therefore

It is hereby ordered, that Sacramento Valley Sugar Company be and it is hereby authorized to sell and transfer to Pacific Gas and Electric Company and Pacific Gas and Electric Company to purchase for the sum of $2,000 that certain electric distribution system located in the counties of Tehama and Butte, State of California, and more particularly described as follows:

> Those certain three (3) phase 6600 volt pole and wire electric distribution lines (including transformers) together with the rights of way for the maintenance and operation of said lines, situate in the counties of Tehama and Butte, State of California, belonging to Sacramento Valley Sugar Company and extending from the Hamilton City substation to the pumping plant formerly owned by the seller in section 33, township 23 north, range 1 west, M. D. B. and M.,

and more particularly shown and delineated on a blue print map filed in connection with this application and marked Exhibit "A," together with the contracts for furnishing and the business of supplying electric energy to the consumers of Sacramento Valley Sugar Company who are now being furnished with electric energy by means thereof.

It is hereby further ordered, that Sacramento Valley Sugar Company be and it is hereby authorized to cease furnishing electric service in the territory now served by means of the property to be transferred and that Pacific Gas and Electric Company be and it is hereby authorized to begin and continue the business thus relinquished.

This authority is granted on the condition that the price for which this property is to be sold shall never be urged before this Commission or any other regulatory body as a measure of its value for rate fixing or for any purpose other than that which gave rise to this proceeding.

Dated at San Francisco, California, this thirtieth day of October, 1922.

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DECISION No. 11184.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER FRANCHISE WHICH APPLICANT HAS SECURED BY ORDINANCE NO. 574 FROM THE COUNTY OF LOS ANGELES.

Application No. 8101.

Decided October 31, 1922.

CERTIFICATE—ELECTRIC UTILITY—LIMITATION OF OPERATION.—Where two companies have franchises to serve the same territory, it is held that the Commission should limit the operation of the companies to prevent needless competition. In the instant case the companies involved stipulated a division of service.

A. F. Bridge, for Applicant.
Thomas J. Reynolds and *A. B. Macbeth*, for Southern California Gas Company.

BRUNDIGE, *Commissioner*.

OPINION.

This is an application by Southern Counties Gas Company of California for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges granted by Ordinance No. 574 (new series) of the county of Los Angeles. A hearing was held in Los Angeles on August 7, 1922, at which time evidence was submitted and the matter taken under submission.

Applicant was granted by the board of supervisors of Los Angeles County a franchise under Ordinance No. 408 (new series) for the installation, maintenance and operation of gas lines in a certain portion of the eastern part of Los Angeles County adjacent to the town of Whittier. This franchise was limited to a period of three years in which construction work was to be completed. Application was made to the Railroad Commission, and by Decision No. 2869, Opinions and Orders of the Railroad Commission, volume 8, page 358, a limited certificate of public convenience and necessity was granted, authorizing the installation of only two specific lines.

Subsequent to the expiration of the three-year construction period of Ordinance No. 408 (new series), applicant obtained from the county of Los Angeles a new franchise with a forty-year construction period, under Ordinance No. 574 (new series) which covered the same territory as the previous franchise. Since that time applicant has extended its gas distribution system in this district. It has failed, until this application was filed, to petition for a certificate of public convenience and necessity to exercise rights and privileges under this franchise.

The territory covered by applicant's new franchise is also covered by a franchise and certificate held by Southern California Gas Company. This company has not attempted to serve the particular district involved, whereas Southern Counties Gas Company has been rendering

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service to consumers therein for some time. It does not appear proper that this Commission should grant a second certificate for service within the same territory without withdrawing or limiting the other; otherwise needless competition might occur. This situation would result unless the present certificate of Southern California Gas Company be in part rescinded, or unless other definite measures be taken which would fully avoid unnecessary duplication of facilities. There has previously been experienced certain controversies between the two utilities relative to serving a portion of this district, which indicate the necessity of a definite understanding at this time. A mutual agreement was entered into, providing for a division of the territory whereby Southern California Gas Company agreed not to compete at this time in the territory in question.

Pursuant to suggestions on this matter made at the hearing, Southern California Gas Company and Southern Counties Gas Company have filed with the Commission a stipulation which provides for a division of service within the district, prevents improper competition and is, in fact, a voluntary waiver by Southern California Gas Company of a portion of its franchise rights which makes unnecessary further action in this regard by the Commission. Under the stipulation Southern California Gas Company retains rights for the collection and transmission of gas as distinguished from the distribution within the area relinquished to Southern Counties Gas Company, as shown on the map marked Exhibit "B," filed with and made a part of said stipulation. This area is wholly within the territory covered by Ordinance No. 574 (new series). The stipulation filed provides as follows:

It is hereby stipulated and agreed by and between the parties hereto as follows:

1. The Southern California Gas Company hereby consents to an issuance of an order by this Commission certifying and declaring that public convenience and necessity require the exercise by Southern Counties Gas Company of the right, privilege and franchise granted by said Ordinance No. 574 upon the two following conditions, however:

(a) That in its said order this Commission shall declare that said Southern Counties Gas Company shall never sell natural, artificial or mixed gas within the territory described in said Ordinance No. 574 and lying south of that certain green line described, drawn upon and appearing on the map which is attached hereto and marked Exhibit "B," but may lay and maintain pipe lines within said territory for the purpose of collecting and transmitting gas therein.

(b) That each and all of its existing rights, privileges and franchises shall remain in full force and effect and that its right to exercise said rights, privileges and franchises, and each of them, shall in no way be prejudiced or affected, except as agreed to in paragraph two hereof.

2. The Southern California Gas Company hereby consents to the issuance of an order by this Commission to the effect that the Southern California Gas Company shall never sell natural, artificial or mixed gas under any or all of its existing franchises within the certain territory described in said Ordinance No. 574 lying north of said green line, described, drawn upon and appearing upon said map attached hereto and marked Exhibit "B," but may lay and maintain pipe lines within said territory for the purpose of collecting and transmitting gas therein.

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This agreement, upon the part of the two utilities, sufficiently assures the prevention of future controversy relative to franchise rights of the two utilities, and satisfactorily provides for the service of gas for heat, light and power purposes now being rendered by Southern Counties Gas Company to inhabitants of the territory herein considered.

Subsequent to the hearing of this matter, the board of directors of Southern Counties Gas Company, by resolution dated October 20, 1922, duly stipulated that neither that company nor its successors nor assigns would ever claim before the Railroad Commission or any court or other public body, a value for the rights and privileges granted in said franchise under Ordinance No. 574 (new series) of the county of Los Angeles in excess of the actual cost to Southern Counties Gas Company of acquiring said franchise, which cost is stated in said stipulation to be the sum of $100.

I find as a fact that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges of the franchise granted to it by Ordinance No. 574 (new series) of the county of Los Angeles within the particular area hereinbefore described in above mentioned stipulation between the two companies.

I submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges under a certain franchise of the county of Los Angeles as provided by Ordinance No. 574 (new series), a hearing having been held, copies of said franchise and stipulations as to its claim for value thereof and further stipulation relative to division of territory with Southern California Gas Company having been duly filed in form satisfactory to the Commission;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by Southern Counties Gas Company of California of the rights and privileges under Ordinance No. 574 (new series) of the county of Los Angeles, except as follows:

Southern Counties Gas Company of California shall not distribute or sell natural, artificial or mixed gas within the territory described in said Ordinance No. 574 (new series) and lying south of that certain green line described, drawn upon and appearing on the map marked Exhibit "B" attached to and made a part of a certain stipulation and agreement between Southern California Gas Company and Southern Counties Gas Company, dated September 6, 1922, and filed in this

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proceeding, but may lay and maintain pipe lines within said territory for purposes of collecting and transmitting gas.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of October, 1922.

DECISION No. 11189.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR A REVISION AND ADJUSTMENT OF RATES.

Application (supplemental) No. 6651.

Decided October 31, 1922.

Jared How, for Applicant San Joaquin Light and Power Corporation.
F. S. Brittain, for California Farm Bureau Federation and E. Easton.
J. J. Deuel, for Kern County Farm Bureau.

ROWELL, *Commissioner*.

OPINION ON SUPPLEMENTAL PETITION.

This supplemental application has been filed by San Joaquin Light and Power Corporation subsequent to the date at which it might legally apply for a rehearing, alleging therein that the Commission's Decision No. 10348, in Application No. 6651, is in error to the extent that it

(1) Ordered San Joaquin Light and Power Corporation to set aside to its depreciation reserve for electric properties on or before July 1, 1922, an amount sufficient to bring its reserve to a total of $2,365,600, as of December 31, 1921.

(2) Ordered San Joaquin Light and Power Corporation to set aside annually to its depreciation reserve until further directed by the Railroad Commission 6 per cent upon an accrued depreciation of $2,864,304, plus all net additions to depreciation reserve made on and after January 1, 1922.

(3) Found that the sum of $50,000 should be disallowed as part of capital expenditures on account of damages incurred in connection with construction of certain lines.

(4) Did not allow federal income tax as a part of operating expenses.

Petitioner requests that a hearing be held in order that evidence might be introduced and arguments made to the end that the opinion of the Commission and order found thereon be amended in accordance with justice.

A protest to the supplemental application of San Joaquin Light and Power Corporation was filed by the California Farm Bureau Federation

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and E. Easton. Protestants request that if the Commission should determine and make changes in the former order regarding depreciation, rates shall be reduced or as an alternative the excess amount of return shall be impounded and utilized by the Commission to reduce operating expenses.

A hearing in this proceeding was held at which time evidence was introduced relative to the matter of depreciation allowance and arguments heard relative to other matters raised.

The Commission in its Decision No. 10348 ordered San Joaquin Light and Power Corporation to set aside to depreciation reserve for electric properties as of December 31, 1921, the total of $2,365,600. Petitioner herein submits a recomputation of the depreciation reserve based upon a somewhat similar study to that introduced in Application No. 6651 estimating the reserve as of December 31, 1921, at $2,262,613. Two main reasons account for the difference in amount between that ordered by the Commission and the present estimate by the company. San Joaquin Light and Power Corporation now estimates that the reserve for depreciation of all electric properties as of January 1, 1916, should have been $656,059, in place of the amount set forth in Table No. 10 of Decision No. 10348, of $639,838. It points out that it has charged depreciation on automobiles through a clearing account to operating expense or capital, depending upon the use of the automobiles, and that as depreciation allowance on automobiles is included in the annuity estimates by the Commission the retirement of automobiles should be deducted. In the allowance for depreciation made by the Commission in 1916 and the estimate made in proceedings thereafter there has been included depreciation annuity upon automobiles. In the estimate now submitted San Joaquin Light and Power Corporation deducts from depreciation reserve retirements of automobiles made during the period from 1916 to 1921.

It appears that there has been a duplication to the extent that in addition to an allowance being made for depreciation annuity by the Commission, the company has distributed part of the cost of replacing automobiles directly to operating expense or capital accounts. It does not appear fair to consumers that the company should at this time have the right to transfer to surplus, depreciation upon automobiles which it has included under operating expenses or capital. The following Table No. 1 sets forth a computation of the depreciation reserve from 1916 to 1921, inclusive, based upon the retention of accrued depreciation on automobiles in the reserve. Estimates of depreciation annuity for 1922 do not include depreciation on automobiles.

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TABLE NO. I.

Depreciation Reserve, Electric Properties, San Joaquin Light and Power Corporation.

	1916	1917	1918	1919	1920	1921
Balance January 1	*$656,059	$810,223	$1,012,285	$1,311,597	$1,573,664	$1,884,710
Additions to reserve:						
Annuity	146,641	166,453	192,300	216,000	284,000	422,522
Interest accrued	39,364	48,813	60,737	78,696	94,420	113,084
Miscellaneous	4,885	2,253	78,020	232	4,185	2,892
Total additions	$190,890	$217,319	$331,057	$294,928	$382,605	$538,498
Grand totals	$846,949	$1,027,542	$1,343,342	$1,606,525	$1,956,269	$2,423,238
Deductions from reserve:						
Replacement—						
Fixed capital account	$34,503	$13,719	$33,483	$32,424	$70,648	$38,899
General capital account	2,223	1,538	**1,738	437	881	3,344
Totals	$36,726	$15,257	$31,745	$32,861	$71,529	$42,243
Balance December 31	$810,223	$1,012,285	$1,311,597	$1,573,664	$1,884,740	$2,380,995

*Reserve as of January 1, 1916, based on Company's Exhibit No. 1—Supplemental Application No. 6651.
**Credit to deductions.

From further study of the evidence it appears that the amount of $2,380,995 is a reasonable estimate of the accrued depreciation upon a 6 per cent sinking fund basis for the electric properties of the San Joaquin Light and Power Corporation as of December 31, 1921, and order in Decision No. 10348 shall be revised by reducing the amount on which interest shall be set aside from $2,864,305 to $2,380,995 as of December 31, 1921.

Applicant urges that Commission should not exclude from capital a cost of $50,000 representing award for property damage caused in connection with construction of a transmission line. This Commission estimated the rate base as the reasonable historical cost of the property, not the total cash capital expended in property, and it does not appear that the cost of paying damages for the burning of a wheat field, due to conditions which were deemed by the courts as negligence, can be classified as a reasonable cost of the construction of the power system. The return allowed by the Commission contemplates certain hazards of the business and it would appear that the damage, such as the one in question, represents one of those hazards which must be borne by the stockholders of the utility.

Relative to federal income tax, I see no reason, considering the case as a whole and the rate of return allowed, for modifying the decision as heretofore made.

Modifications in the depreciation reserve herein provided in no way affect the estimate of total cost of service or the basis of rates set forth

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in Decision No. 10348 and it does not appear necessary therefore to make any modification relative to rates as suggested by the Farm Bureau Federation.

I recommend the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to this Commission in its supplemental application for certain modifications of Decision No. 10348, a hearing having been held and it appearing to this Commission just and reasonable that the provisions of said Decision relative to depreciation reserve and the setting aside of interest upon depreciation reserve should be modified as herein provided;

It is hereby ordered, that the provisions of the Commission's Decision No. 10348, in Application No. 6651 and Case No. 1544, decided April 25, 1922, reading:

> "That San Joaquin Light and Power Corporation,
>
> (1) "Set aside to its depreciation reserve for electric properties on or before July 1, 1922, an amount sufficient to bring this reserve to a total of $2,365,600, as of December 31, 1921.
>
> (2) "Set aside to its depreciation reserve commencing January 1, 1922, and until otherwise directed by the Railroad Commission, the sum of $467,893 per annum, plus an amount per annum equal to that computed on the annuity rates set forth in Table No. 12 in the opinion preceding this order on all net additions to depreciable capital made after January 1, 1922.
>
> (3) "Set aside annually to its depreciation reserve until further directed by the Railroad Commission, 6 per cent upon an accrued depreciation of $2,864,304, plus all net additions to depreciation reserve made on and after January 1, 1922."

be and they are hereby modified and amended so as to read:

That San Joaquin Light and Power Corporation,

(1) Set aside to its depreciation reserve for electric properties on or before January 1, 1923, an amount sufficient to bring this reserve to a total of $2,380,995 as of December 31, 1921,

(2) Set aside to its depreciation reserve, commencing with the calendar year 1922, the sum of $467,893 per annum, plus an amount per annum equal to that computed on annuity rates as set forth in Table No. 12 in the Opinion of Decision 10348 on all new additions to depreciable capital made on and after January 1, 1922,

(3) Set aside annually commencing with the calendar year 1922 to its depreciation reserve in addition to the annuity above, an amount equal to 6 per cent upon an accrued depreciation of $2,380,995, plus all net additions to depreciation reserve made on and after January 1, 1922, in accordance with this order.

The effective date of this order is December 1, 1922.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of October, 1922.

DECISION No. 11198.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, A CORPORATION, FOR PERMISSION TO OPERATE OVER CERTAIN HIGHWAYS.

Application No. 8193.

Decided November 6, 1922.

CERTIFICATE—MOTOR CARRIER—PROTECTION FOR SERVICE.—The Commission will protect carriers in their operations and revenues so long as they measure reasonably to the standards of rates, adequacy and efficiency.

Durley and Downes, by *W. Mark Durley*, for Applicant.
Earl E. Moss, for Los Angeles and Oxnard Daily Express, Protestant.

BY THE COMMISSION.

OPINION.

Applicant Los Angeles and Santa Barbara Motor Express Company, a corporation, seeks permission to divert its service to Oxnard in order to transport the shipments of the Dunn Manufacturing Company to Los Angeles.

A public hearing was held at Oxnard by Examiner Williams.

It developed that all of the stock of the Los Angeles and Santa Barbara Motor Express Company is owned by the Dunn Manufacturing Company, except three shares, and that the only purpose of the application was to permit this applicant to use its equipment to depart from its authorized route at Santa Paula and receive and transport, by any route it chose, shipments from and to the Dunn Manufacturing Company, between Oxnard and Los Angeles, and no other service of any kind. It was admitted that service to Oxnard is now rendered by the Los Angeles and Oxnard Daily Express, and while criticism was made by applicant of this carrier's service, the expressed purpose was to divert approximately $500 a month to applicant's revenues, which now accrues to protestant.

Protestant, preliminary to hearing, moved the dismissal of the application on the ground that it did not ask a certificate of public convenience and necessity and that only with such a request before it could the Commission make any valid order. Further, that Oxnard and the Dunn Manufacturing Company are served by protestant and that the offer of applicant was not to serve the public because of a necessity alleged, but merely to invade protestant's territory and serve exclusively

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one customer. This protest (in the nature of a demurrer), was overruled for the reason that under the application applicant might receive a new route by way of Oxnard, and be refused privilege of service within protestant's territory. A new routing, without the service proposed, was not urged, however.

Applicant's testimony related only to service to the Dunn Manufacturing Company. Proof of necessity for this service was not made. The protestant, the testimony showed, has ample equipment and suitable schedules and rates, and applicant's own testimony was that no loss of business, due to any fault or delay of protestant had been suffered by the Dunn Manufacturing Company. Protestant did not offer any testimony at the hearing, except by way of cross examination.

It is the policy of this Commission to protect carriers in their operations and revenues, so long as they measure reasonably to the standards of rates, adequacy, and efficiency. In this case, applicant has chosen one customer, the largest in Oxnard, and seeks to deprive protestant of this customer's shipments without good cause and without fault on protestant's part. It is our opinion that the application should be denied.

ORDER.

It is hereby ordered, by the Railroad Commission of the State of California that the application herein be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of November, 1922.

DECISION No. 11202.

IN THE MATTER OF THE APPLICATION OF C. M. BLABON, J. R. CLEAVELAND AND D. MOYERS FOR THE APPROVAL OF AN AGREEMENT TO TRANSFER A CERTAIN PART OF THE RIGHT TO OPERATE AN AUTOMOBILE STAGE LINE BETWEEN SANTA CRUZ AND FRESNO, CALIFORNIA.

Application No. 7803.

Decided November 6, 1922.

TRANSFER—MOTOR CARRIERS—CHANGE IN SERVICE.—The Commission looks with disfavor on attempt to sell off part of franchise granted on showing of need of specific service, and thereafter rendering service different than the one authorized in the original grant.

Harry A. Encell, for Applicants.

BY THE COMMISSION.

OPINION.

C. M. Blabon and J. R. Cleaveland, copartners, together with D Moyers have filed a joint application with the Railroad Commission in which they petition for an order authorizing the copartnership to sell and Moyers to purchase that portion of the operative right of the co-

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partners between Fresno and Los Banos operated in connection with a stage line, Fresno to Santa Cruz via Los Banos.

A public hearing on the above entitled application was held on June 16, 1922, before Examiner Eddy at San Francisco, at which time the matter was submitted and it is now ready for decision.

Under Decision No. 7648 in Application No. 5192, dated May 27, 1920, Blabon and Cleaveland, copartners, were granted a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between Fresno and Santa Cruz, via Los Banos and Hollister; such certificate containing restrictions with reference to local service between Fresno and Los Banos and Watsonville and Santa Cruz. The Fresno-Los Banos restriction was required due to the fact that Moyers, one of the applicants in the present proceeding, was at the time rendering a local service between such points and that there was no further necessity for additional local service.

The copartners now propose to sell that section of their operative right to Moyers under the assumption that Moyers' local service could adequately care for the passenger service, destined, Fresno to Santa Cruz, through the operation of a connecting car transferring passengers at Los Banos.

The consideration involved is given as the sum of $2,250 and includes no physical property whatsoever, but solely a section of a franchise heretofore issued to the copartners. An application of this kind gives rise to a question of policy, which we believe should be at this time determined.

The certificate, a portion of which it is herein sought to sell, was obtained by the copartners upon a showing that public necessity required the operation of a through stage service from Fresno to Santa Cruz. Moyers, one of the applicants herein, protested the granting of such certificate between Fresno and Los Banos, and was at the time rendering a similar service to that which applicants now contend would be adequate to care for through passengers by transferring at Los Banos. We are of the opinion that when an applicant obtains a certificate authorizing the operation of a through passenger service upon a showing made at the time that public necessity required such through service, it is not in the interest of the traveling public to permit him to thereafter sell, for a substantial sum, sections or portions of such certificate on the ground that the traveling public would be adequately served by transferring from one stage line to another at a connecting point.

If conditions have changed in this territory and there is no further necessity for the operation of the Santa Cruz-Fresno stages between Los Banos and Fresno, and it is the belief of the operators of this stage line that the traveling public will receive adequate service through transfer at Los Banos, their proper course of procedure would be the filing

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of an application for the modification of their existing operative right and upon a sufficient showing, their existing operative right could be amended through an authorization permitting abandonment of the Los Banos-Fresno section.

The Commission does not look with favor upon an applicant securing a franchise upon a showing that public necessity requires a specific through service and subsequently selling sections of such certificate for substantial amounts, and thereafter rendering a service different than the one their original operative right authorized.

ORDER.

A public hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of November, 1922.

DECISION No. 11203.

IN THE MATTER OF THE APPLICATION OF G. A. REICHMAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND PRESENT FREIGHT AND PASSENGER SERVICE NOW OPERATING BETWEEN YREKA AND ETNA AND INTERMEDIATE POINTS, EXTENSION TO BE FROM A POINT ABOUT ONE AND ONE-HALF MILES SOUTH OF YREKA TO GRENADA.

Application No. 8120.

IN THE MATTER OF THE APPLICATION OF GRENADA WAREHOUSE AND TRUCKING COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT AND EXPRESS BETWEEN GRENADA, FORT JONES, GREENVIEW AND ETNA MILLS, CALIFORNIA.

Application No. 8221.

Decided November 6, 1922.

CERTIFICATE—COMPETITION—SERVICE.—It is held that if two operating units were to cover a territory where one is not now meeting with financial success, the public would suffer from poor service or a total suspension of service.

James M. Allen, for Applicant in Application No. 8120; Protestant in Application No. 8221.

B. K. Collier, for Applicant in Application No. 8221; Protestant in Application No. 8120.

R. S. Taylor, for Yreka Railroad, Protestant in both applications.

BY THE COMMISSION.

OPINION.

These two petitions, involving applications for certificates of public convenience and necessity to operate automobile common carrier service between Grenada and Etna Mills, and the intermediate points, present-

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ing similar situations were, by stipulation, consolidated for a joint hearing, opinion and order.

A public hearing was held on October 11, 1922, at Yreka, before Examiner Geary and the applications having been duly submitted are now ready for a decision.

Application No. 8120, dated July 27, 1922, filed by G. A. Reichman, seeks authority to extend the present freight and passenger service now operating between Yreka and Etna Mills to Grenada. The proposed additional service diverges from the highway at a point approximately 1½ miles south of Yreka, where the main highway of Grenada leaves applicant's present route. The distance between Grenada and the junction point is approximately 9 miles. Applicant proposed to render a weekly service at the schedules of freight and passenger rates as set out in exhibits attached to and made part of the application.

Application No. 8221 of John F. Stallcup and Edward Axtell, partners in business under the name of the Grenada Warehouse and Trucking Company, was filed September 1, 1922. The application, however, was signed only by one of the partners, John F. Stallcup. Applicant proposes to establish an entirely new service carrying only freight and express between Grenada and Etna Mills and the intermediate points, as per the schedules of rates attached to and made a part of the application. The service contemplated to be twice a week, on Tuesdays and Fridays.

The records of the Commission show that the service of G. A. Reichman, between Yreka and Etna Mills, was established prior to the enactment of chapter 213, Statutes 1917, and the testimony given by Mr. Reichman was to the effect that he has been in the transportation business for more than twenty years; that he is equipped with a number of automobiles, having a total carrying capacity of 12 tons; that he has horses and wagons for use during the winter months when automotive transportation is impracticable; also that the service to be established would not require additional equipment, for the trucks now in use would take care of the new business.

In the opinion of witness Reichman, 95 per cent of the freight destined to Etna Mills and the other points in Scott Valley, south of Yreka, would be diverted and, instead of moving through Montague to Yreka in connection with the Yreka Railroad, would pass through Grenada, thence to destination direct on the auto trucks, thus depriving the Yreka Railroad of the traffic now moving via the Montague gateway.

Applicant John F. Stallcup testified that he had been located at Grenada for about two years engaged principally in the transportation, warehouse and lumber business; that he operates a warehouse 50 x 80 feet; has a certain amount of automobile equipment and would use the warehouse property as a depot for the receipt and delivery of freight.

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The service proposed by Stallcup from Grenada would duplicate that now being given by Reichman from Yreka, in so far as the through traffic now moving via Montague is concerned.

The testimony of the numerous witnesses in both proceedings was in no manner conclusive as to any real public necessity for the proposed service, although this additional operation would be a public convenience. There is no definite testimony, other than that given by applicant Reichman, indicating the amount of freight tonnage, either local or through, which would be developed via the Grenada gateway.

The annual reports for 1920 and 1921, filed with this Commission by G. A. Reichman, the petitioner in Application No. 8120, indicate that his operations between Yreka and Aetna Mills have not been financially successful. These reports show that the United States mail is of the greatest importance and that the income from this source in the year 1920 was $5,331.44 out of a total gross revenue of $8,580.17. For the year 1921 the mail business paid $6,260.44 of the total gross revenue of $9,523.81. The total freight business in 1920 was $2,282.85 and in 1921 was $1,889.46. These figures clearly demonstrate that if a new competitive route were established from Grenada, there must of necessity be a very large increase in the tonnage in order to make the venture possible. Certainly if two operating units were to cover the territory where one is not now meeting with financial success, the public would suffer from poor service or a total suspension of the service.

In denying Application No. 8079, Decision No. 11156, October 23, 1922, H. Gallerson and J. B. Barnett, for a certificate to operate passenger service between Yreka and Weed, we used the following language:

> "The testimony of the president of the Yreka Railroad Company was to the effect that his company maintains operations under great difficulty and that if any marked reduction occurs in the revenue, the line must sooner or later discontinue service entirely. The annual report of the company on file with the Commission for the year ending December 31, 1921, shows operating revenue $21,580.54; railway operating expenses $22,830.44; deficit from railway operation $1,249.90; railway tax accruals $1,598.74, showing a railway operating deficit for the twelve months period of $2,848.64. If the revenue of the company does not increase in the near future this deficit must of necessity be met by the stockholders through assessments.
>
> In Decision No. 7248, Application No. 4513, March 11, 1920, F. F. Hoffman and A. J. Christopher for certificates of public convenience and necessity to operate a passenger line between Yreka and Montague (17, C. R. C. 892), the Commission employed the following language:
>
> 'Undoubtedly an overwhelming percentage of the traveling public prefers the automobile to other means of transportation available in rural districts, and the present instance is no exception, as the marked decrease in passenger revenue of the Yreka Railroad Com-

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pany since the advent of automobiles abundantly shows, being a drop from $16,175.75 in 1912 to $3,851.68 in 1918, or about 76 per cent in six years.

* * * * * * *

What the lapse of a few years will mean to these communities in the way of transportation rests largely with the population affected. However, the weight of testimony in this proceeding indicates that the public convenience, considering the transportation problem as a unit, is now being handled in a fairly satisfactory manner. The establishment of an additional passenger transportation line, although it would probably serve a limited public convenience, is not a necessity at the present time and would doubtless reduce passenger travel by rail to a minimum. The railroad company affirms that as a result of such reduced passenger patronage its entire operation would have to cease.' ''

Yreka is the county seat of Siskiyou County, has a population of approximately 2000 and is to a great extent dependent upon the Yreka Railroad. The railroad is continuing the Montague-Yreka service under most difficult financial conditions and the granting of these applications might prove disastrous to its future operations.

In reaching a conclusion in a situation of this kind it is incumbent upon the Commission to give consideration to all of the elements and factors involved and the testimony, in the instant proceedings, does not prove or show any real public necessity for a service through Grenada to Etna Mills which is not now being rendered by the present operations through Montague and Yreka.

The granting of certificates to these applicants would result in a convenience to only a limited number of shippers to the injury of many.

We find as a fact that there is no public convenience and necessity for the operation of automobile service between Grenada and Etna Mills and that the applications should be denied.

ORDER.

A public hearing in the foregoing proceedings having been held, and it appearing to the Commission that public convenience and necessity do not require the inauguration of the proposed automobile services between Grenada and Etna Mills by either G. A. Reichman in Application No. 8120, nor by John F. Stallcup in Application No. 8221;

It is hereby ordered, that these applications be and the same are hereby denied.

Dated at San Francisco, California, this sixth day of November, 1922.

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DECISION No. 11210.

IN THE MATTER OF THE JOINT APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY AND HOLTON POWER COMPANY FOR A REVIEW OF RATES.

Application No. 5334.

Decided November 10, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

In a supplemental petition filed in the above entitled matter The Southern Sierras Power Company and Holton Power Company allege that because of business conditions prevailing in the territory served by them, they have been unable to realize sufficient revenue under the rates established by Decision No. 8119, as amended, to set aside for depreciation the amounts directed in the decision without seriously affecting their financial condition and that inasmuch as a large part of their property is of long-lived construction, the order in Decision No. 8119 may be modified with safety. Applicants request such modification of the order in said decision as the Commission may find meet and just.

The Commission has heretofore, because of economic conditions, reduced some of the rates established by Decision No. 8119, but has made no adjustment in the allowance for depreciation.

Reports filed by applicants show that they are not earning the amount estimated in Decision No. 8119. Upon further investigation of the evidence in this proceeding and a review of the information before the Commission in connection with the general investigation of applicants' properties, it appears that the depreciation annuity which The Southern Sierras Power Company was directed to set aside in Decision No. 8119 may be reasonably reduced from the amount of $150,000 plus two and one-half per cent (2½%) per annum on all net additions and betterments made after July 1, 1920, to $115,500 per annum plus one and seven-tenths per cent (1.7%) on all net additions to depreciable capital made after July 1, 1920, and that the depreciation annuity for Holton Power Company may reasonably be reduced from $26,000 per annum plus an amount equal to three per cent (3%) per annum on all net additions to depreciable capital after July 1, 1920, to $21,500 per annum plus two and one-half per cent (2½%) per annum on all net additions to depreciable capital made after July 1, 1920.

We have calculated the depreciation annuities of both companies on the foregoing bases and find that as of January 1, 1922, the depreciation annuity of The Southern Sierras Power Company is $127,150 and that of the Holton Power Company $25,250.

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Applicants also urge that they should not be required to set aside interest on the accrued depreciation as provided in Decision No. 8119. The depreciation annuities referred to are calculated on a six per cent (6%) sinking fund basis. For applicants not to set aside the interest would result in an anomalous situation. A modification of the amount on which the six per cent (6%) is calculated is provided in this order to correct for the larger annuity required during 1920 and 1921.

In Decision No. 8119 the Commission included in the estimate of reasonable operating expenses of The Southern Sierras Power Company $500,000 as rental for The Nevada-California Power Company plants. Statements filed by The Southern Sierras Power Company indicate that the rental paid for such plants has not been adjusted to conform with the Commission's decision. Such adjustments should be made forthwith, and until this is done, no relief other than that herein granted will be accorded to applicants in so far as depreciation adjustments are concerned.

ORDER.

The Commission has considered applicants' requests, and it appearing that this is not a matter on which a public hearing is necessary;

It is hereby ordered, that the provisions of the Commission's order in Decision No. 8119, reading:

The Southern Sierras Power Company is hereby directed to set aside in depreciation reserve commencing October 1, 1920, the sum of $150,000 per annum plus an amount equal to 2.5 per cent per annum on all net additions to depreciable capital made after July 1, 1920.

The Southern Sierras Power Company is hereby further directed to set aside in its depreciation reserve commencing October, 1920, the sum of $45,000 per annum plus 6 per cent per annum on all net additions to depreciation reserve made on and after October, 1920.

Holton Power Company is hereby directed to set aside in its depreciation reserve commencing October, 1920, the sum of $26,000 per annum plus an amount equal to 3 per cent per annum on all net additions to depreciable capital made after July 1, 1920.

Holton Power Company is hereby further directed to set aside in its depreciation reserve commencing October, 1920, the sum of $9,000 per annum plus 6 per cent per annum on all net additions to depreciation reserve made on and after October, 1920

be, and they are hereby modified and amended so as to read:

The Southern Sierras Power Company is hereby directed to set aside to depreciation reserve, commencing January 1, 1922, the sum of $127,150 per annum plus one and seven-tenths per cent (1.7%) per annum on all net additions to depreciable capital made after January 1, 1922.

The Southern Sierras Power Company is hereby further directed to set aside to its depreciation reserve, commencing January 1, 1922, in addition to the above amount, the sum of $54,000 per annum plus six per cent (6%) per annum on all net additions to depreciation reserve made on and after January 1, 1922.

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Holton Power Company is hereby directed to set aside to its depreciation reserve, commencing January 1, 1922, the sum of $25,250 per annum plus two and one-half per cent (2½%) per annum on all net additions to depreciable capital made after January 1, 1922.

Holton Power Company is hereby further directed to set aside to its depreciation reserve, commencing January 1, 1922, in addition to the above amount, the sum of $9,150 per annum plus six per cent (6%) per annum on all net additions to depreciation reserve made after January 1, 1922.

It is hereby further ordered, that the order in Decision No. 8119, dated September 16, 1920, as amended, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this tenth day of November, 1922.

DECISION No. 11233.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY, A CORPORATION, TO ABANDON CERTAIN OF ITS TRACKS AND TO REROUTE CERTAIN OF ITS CARS IN THE CITY OF SAN JOSE, CALIFORNIA.

Application No. 7786.

Decided November 14, 1922.

ABANDONMENT—ELECTRIC RAILWAY—ADDITIONAL CAPITAL EXPENDITURE—FAIR RETURN.—Upon a showing that the present financial condition and future earning prospect of applicant did not warrant continued operation of the San Jose-Los Gatos line, Peninsular Railway Company was authorized to abandon same.

Louis Oncal and *Lieb and Lieb*, by *W. F. James*, for Applicant.
Bohnett and Campbell, by *L. D. Bohnett*, for certain residents, Protestants.
Archer Bowden, City Attorney, for City of San Jose.

BY THE COMMISSION.

OPINION.

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order granting permission to applicant to abandon its franchise upon and service over Bird avenue, Coe avenue, and Lincoln avenue between the intersection of Lincoln avenue and Willow street, to remove its rails and equipment therefrom, and to hereafter operate its cars now operated over the above described route between San Jose and Los Gatos by way of Campbell, over Willow street and Delmas avenue or over Willow street and First street.

A public hearing on this application was conducted by Examiner Handford at San Jose, the matter was duly submitted and is now ready for decision.

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Applicant alleges that the line, for which permission to abandon is herein sought, is used solely for the operation of its through cars between San Jose and Los Gatos via Campbell; that the service so rendered can be equally well performed by the rerouting of its through cars either over Willow street and First street or over Willow street and Delmas avenue; that by reason of hourly service but few passengers are carried locally over the portion of the line herein sought to be abandoned; that little inconvenience will be occasioned to such limited local passenger traffic for the reason that a local service of greater frequency is operated over the Park avenue and San Carlos street lines of applicant and over the Willow street and Delmas avenue and connecting lines of the San Jose Railroads; that the financial condition of applicant is such that every possible economy in operation is necessary; that the line herein proposed to be abandoned is in such physical condition that rehabilitation is shortly necessary and the cost of such rehabilitation is estimated by the engineers of applicant to approximate the sum of $13,630 if the road is brought up to the standard as originally constructed, but if the city and county authorities order the paving of the portions of Bird and Coe avenues upon which the track is laid the cost of the reconstruction and paving will approximate $38,181.61 after making due allowance for salvage recovered from the existing road.

Witnesses for applicant testified as to the present financial condition of the company and the net loss from operation during the period ending December 31, 1921, of $362,536.02 (including interest and taxes). During the period January 1, to April 30, 1922, inclusive, a net loss of $133,103.45 (including interest and taxes) was incurred. A check of the patrons using the cars during the period from April 3 to 8, 1922, inclusive, on the portion of the line proposed to be abandoned shows an average of 3.79 passengers per trip boarding or alighting.

The granting of the application is protested by residents of the section served by the line and petitions signed by 109 protestants were filed as an exhibit at the hearing, requesting the denial of the application and requiring applicant to furnish additional service. A further protest was filed at the hearing signed by 38 property owners on Bird avenue who objected to the removal of the tracks for the reason that the additional expense of paving, if such were authorized by the city or county authorities, must be borne entirely by the abutting property owners.

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The city of San Jose, through its city attorney, objects to any authorization for rerouting of cars on Delmas avenue and on Willow and First streets, alleging that such rerouting would further complicate traffic congestion on First street if the heavy type of cars in use on this line of the Peninsular Railway were to be operated on such street, and that no franchise was held by applicant permitting operation on First street.

We have carefully considered all the evidence in this proceeding and the exhibits filed herein. The limited local patronage accorded the through line between San Jose and Los Gatos via Campbell does not, in our opinion, justify the considerable expenditure necessary for the rehabilitation of the line, particularly to the extent necessary if the paving proposed on Bird and Coe avenues is to be undertaken upon order of the city and county authorities. The present financial condition of the applicant does not justify the additional capital expenditure necessary to properly rehabilitate the line and care for the additional paving costs and construction necessary in connection with such paving. There is no present, or immediate future, prospect of sufficient passenger traffic being developed on the portion of the line herein proposed to be abandoned to produce a fair return on the amount of expenditure necessary to place the portion of the line in proper operative condition, including paving, after meeting the expense of operation and current maintenance. We are of the opinion that the application should be granted and the diversion of routing from the present line to a routing of the San Jose-Los Gatos via Campbell through cars over Willow street and Delmas avenue should be authorized. The order which will be made herein will require that the consent of the proper authorities be obtained as to the relinquishment of any portions of franchise routes herein authorized discontinued.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being fully advised, and basing its order on the findings set forth in the preceding opinion;

It is hereby ordered, that the application of the Peninsular Railway Company, a corporation, for authority to abandon service and remove its rails and equipment on Bird avenue, Coe avenue, and Lincoln avenue between the intersection of Lincoln avenue and Willow street, as same are located in the city of San Jose and the county of Santa Clara; and to hereafter operate its San Jose-Los Gatos (via Campbell) through cars over Willow street and Delmas avenue, be and the same hereby is granted; provided, however, that this order shall not become

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effective until there shall have been filed with the Railroad Commission certified copies of formal relinquishment of such portions of franchises as are effective covering the portion of line herein authorized abandoned, and certified copies of acceptance and consent as to relinquishment of the portions of franchises by the governing bodies of the political subdivisions heretofore having granted such franchises.

Dated at San Francisco, California, this fourteenth day of November, 1922.

DECISION NO. 11234.

ISLAND TRANSPORTATION COMPANY

vs.

GEORGE W. FREETHY.

Case No. 1798.

Decided November 14, 1922.

RATES—WATER CARRIER—REBATES—PENALTIES FOR.—It is held to be to the interest of shippers and consumers that carriers adhere strictly to published rates, and it is also essential that deviations from the published rates be discouraged by adequate liabilities and penalties. It is within the power of the Commission, under the provisions of the Public Utilities Act, to assess fines and terms of imprisonment.

A. B. Roehl, by *Benjamin Walters*, for Complainant.
Gwyn H. Baker, for Defendant.
Chaffee E. Hall, for Bay and River Boat Owners' Association, Intervenors.

BY THE COMMISSION.

OPINION.

On August 23, 1922, the Island Transportation Company filed with the Railroad Commission a complaint against George W. Freethy. On September 28, 1922, at the first hearing in this proceeding the Bay and River Boat Owners' Association, by its secretary, John S. P. Dean, filed a petition in intervention.

The complaint is to the effect that the defendant, George W. Freethy, is engaged as a public utility and common carrier of property on San Francisco Bay and its tributaries, in competition with the complainant, and has on file with the Railroad Commission tariffs setting forth the rates, rules and regulations under which the common carrier business is transacted; and that, notwithstanding the filing of tariffs, the defendant has failed to observe such tariffs and has been charging and collecting rates in contravention of the tariffs and in violation of section 17 of the Public Utilities Act. It is specifically alleged in the complaint that the defendant on or about June 12, 1922, moved a consignment of lumber in barge-load lots from Bay Point to Stockton, against

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which there was charged and collected the rate of $1.75 per M feet board measure in lieu of the lawful published rate then in effect of $2.25 per M feet board measure. The complainant prays that the defendant be compelled to cease and desist from the collection of unlawful charges, to return to its patrons all overcollections, and to recover all undercollections; also that the defendant, if found guilty, be penalized in conformity with the provisions of the Public Utilities Act.

The petition in intervention of the Bay and River Boat Owners' Association alleged that the members of the association, of which both the complainant and the defendant are members, operated approximately 95 per cent of the equipment employed in the tramp and irregular freight service upon the inland waters in the central part of the State of California, and that the association was interested in the enforcement of the rates published in the regular tariffs on file with the Commission.

Public hearings were held before Examiner Geary on September 28 and October 27, 1922, at San Francisco, and the matter is now ready for decision.

The specific rate published for the movement of lumber in barge-load lots from Bay Point to Stockton is $2.25 per M feet board measure, as shown on page 17 of Bay and River Boat Local Tariff No. 2, C. R. C. No. 4, issued August 25, 1920, and effective August 27, 1920. In support of its contention the complainant, through the testimony of the manager of the Island Transportation Company, endeavored to show that the particular consignment of lumber moved from Bay Point to Stockton was solicited by the agent of the complainant, but that the service was not secured by reason of the fact that the defendant had agreed to move the consignment for the shipper, San Joaquin Lumber Company, at a rate less than the published rate of $2.25, the inference being that the consignment, if given to the defendant, George W. Freethy, would be charged at a rate of $1.75 per M feet board measure.

The defendant, George W. Freethy, was called as a witness on behalf of the complainant, and on direct examination, gave the following testimony:

"Mr. Walters: Q. Who did you make—who did you deal with particularly when you hauled this lumber?

A. (By Mr. Freethy.) Who did I deal with?

Q. Yes, who did you make your bargain with to haul the lumber, who did you speak to?

A. Mr. Inglis.

Q. Mr. Inglis is the manager of the San Joaquin Lumber Company?

A. Supposed to be, ain't he?

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Q. I am asking you, is he the manager of the San Joaquin Lumber Company?
A. As far as I know he is.
Q. What arrangements did you make with Mr. Inglis?
A. Arrangements did I make?
Q. Yes.
A. I made arrangements to haul his lumber.
Q. With Mr. Inglis?
A. Yes sir.
Q. To haul the lumber?
A. Yes sir.
Q. What price did you agree on?
A. $2.25 a thousand.
Q. You did?
A. Yes sir, and that is what I got paid for it, too.
Q. Was that paid at one time?
A. Yes sir, every dollar of it.
Q. There was no conversation about a less rate than $2.25?
A. No sir.
Q. Between you and Mr. Inglis?
A. No sir.
Q. You say, 'No sir'?
A. He told me he thought the lumber could be hauled at less than $2.25. He gave me about the same talk he gave you, I guess.
Q. And you agreed to haul it for $2.25?
A. Yes sir.
Q. But no less?
A. No sir.
Q. And you got paid $2.25 when you first received any payment at all?
A. Yes sir.
Q. You did not at no time—was this payment made at one time?
A. I told you yes once.
Q. You did not accept any portion of that $2.25 in payment at any previous date?
A. No sir, not one nickel.
Q. And the only payment made was $2.25 a thousand?
A. Yes sir.
Q. In full?
A. Yes sir.
Q. When was that paid?
A. Oh, I sent him the bill there on the first of August.
Q. And the lumber was hauled when?
A. Well, the last load was hauled——
Q. The first load?
A. I don't know, June or July—July, I think. I don't remember exactly the date."

(Transcript, pages 10 and 11.)

In connection with this testimony of defendant Freethy there was introduced as Exhibits 1, 2 and 3: a bill for 303,420 feet of lumber at rate of $2.25 per M, making a total charge of $682.69, photographic copy of a check dated August 28, 1922, issued by the San Joaquin Lumber Company in the sum of $682.69 and the memorandum slip which accompanied the bank check.

At the second hearing, held October 27, 1922, the manager of the San Joaquin Lumber Company, the consignee of the cargo in question, appeared as a witness, having been subpoenaed by the complainant. This witness, after explaining, on direct examination, the manner in which the lumber shipment was delivered to defendant, and the

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conversation which took place in connection with the movement, testified on cross-examination as follows:

"Mr. Baker: I show you a paper marked Defendant's Exhibit No. 1 and I ask you if that is a copy of the bill rendered you for the hauling of the lumber (handing to witness)?

A. (by Mr. Inglis) Yes sir, this a duplicate of the bill I have here.
Q. And that is the bill which you paid?
A. Yes sir.
Q. Now, I show you a paper marked Defendant's Exhibit No. 2 and ask you if that is a copy of the check, a true and correct copy of the check (handing to witness)?
A. Yes sir.
Q. I will ask you if the original of that check was cashed?
A. Yes sir.
Q. I will ask you if any refund of the amount paid by that check was ever made to you in any source whatever?
A. No sir."

(Transcript, page 103.)

The chief accountant of the Railroad Commission, acting under instructions, made an inspection of the books of the defendant, and rendered a report of his findings. The material part of this report was a verification of the testimony given by the defendant. The report showed that there was recorded in the journal book of the defendant items covering the shipments, showing their movements from Bay Point on June 12 and 13 and July 27, 1922. The journal showed the number of feet of lumber to be the same as covered by copy of invoice, entered as Exhibit No. 1. The check book of defendant also recorded the fact that under date of September 2, 1922, a check for $682.69 was deposited in the bank. We, therefore, have a complete verification of the statements made in the testimony of the defendant and of the manager of the lumber company. Following the last meeting, as per stipulation entered into, a deposition was secured from the bookkeeper of the defendant. This deposition was taken in the office of the complainant's attorney, and verifies the report rendered by the chief accountant of the Commission and also the testimony of the principal witness.

The defendant presented no testimony, all of the testimony given by Mr. Freethy being secured while on the witness stand as a witness called by the complainant.

It is to the interest of shippers and consumers that carriers adhere strictly to published rates, and it is also essential that deviations from the published rates be discouraged by adequate liabilities and penalties; it is within the power of this Commission, under the provisions of the Public Utilities Act, to assess fines and terms of imprisonment. There have been frequent informal complaints filed with this Commission alleging that certain common carriers operating in the San Francisco Bay districts have violated their published tariffs, but the

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Commission has received no substantial proof of such violations of the law, and none has been presented in this formal proceeding. It is not upon the charge alone that a party can be convicted; it takes the charge, supported by the evidence, to make a case. We here have the charge, but the evidence does not prove the charge.

Upon consideration of this whole case, we are of the opinion that the evidence does not sustain the charge that an offense against the law was committed by the defendant, and it follows that the case should be dismissed; and it is so ordered.

ORDER.

Complaint having been made that the defendant charged freight rates different from those published in lawful tariffs on file with the Railroad Commission, a public hearing having been had, and it appearing to the Commission from the findings set out in the foregoing opinion that said complaint is not well founded and should be dismissed;

It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this fourteenth day of November, 1922.

DECISION No. 11235.

IN THE MATTER OF THE APPLICATION OF THE KERMAN TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES OR CERTIFICATES OF INDEBTEDNESS TO PAY OUTSTANDING NOTES AND OPEN ACCOUNTS.

Application No. 8291.

Decided November 14, 1922.

W. J. Palethorpe, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

The Kerman Telephone Company asks permission to issue and sell, at not less than 95 per cent of their face value and accrued interest, $35,000 of serial notes bearing interest at the rate of 7 per cent per annum. The notes are to be issued for the purpose of obtaining moneys to pay outstanding notes and indebtedness represented by accounts payable.

The Kerman Telephone Company was organized in 1911, with an authorized capital stock of $35,000 divided into 1000 shares of $35

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each. Stock in the amount of $8,395 has been issued and is outstanding. On May 17, 1914, an assessment of $15 per share was levied upon the stock. It is of record that the holders of seven shares of stock have paid their assessment. The time within which the remainder were permitted to pay the assessment was extended from time to time and none of the assessment has been collected, neither has any of the stock been sold at delinquent sale. The result is that the company carries on its balance sheet an item of $3,492 due from stockholders on account of nonpayment of assessment. This amount should forthwith be collected from stockholders and applied to the payment of indebtedness. The authority herein granted will not become effective until the Commission has been advised that the unpaid assessment is collected or the proper legal steps taken to enforce collection and the stock sold at delinquent sale.

In Exhibit No. 1 applicant as of October 9, 1922, reports its indebtedness at $33,022.09. Of this amount, $3,800 is represented by a note payable to the First National Bank, $1,568.26 by a note payable to the Western Electric Company, and $4,977.98 by trade acceptances payable to the Western Electric Company. The company's indebtedness represented by audited vouchers amounts to $22,675.85, of which $18,796.48 is payable to the Fresno Farms Company and $2,562.17 to the Western Electric Company. The Fresno Farms Company owns all of applicant's outstanding stock, except 30 shares. The record shows that applicant's indebtedness was incurred for the purpose of paying for new properties and meeting operating deficits. At least $3,492 of applicant's debt should be paid through the collection of unpaid assessments.

On September 3, 1921, the Railroad Commission authorized applicant to increase its rates provided that certain improvements be made in its telephone system and telephone service. Not until recently have these improvements been completed. Consequently applicant has not benefited by the rate increase. As of July 1, 1920, the Commission found the estimated historical cost of applicant's properties to be $24,563 and the depreciated historical cost $15,607. Since the date of the appraisal of applicant's properties by the Commission's engineers, it reports an expenditure of $18,635.54 for new properties.

In my opinion applicant should not be permitted to issue more than $30,000 of notes, and I herewith submit the following form of order:

ORDER.

Kerman Telephone Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and the Railroad Commission being of the opinion that applicant

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should be permitted to issue $30,000 of notes subject to the condition of this order;

It is hereby ordered, that Kerman Telephone Company be and it is hereby authorized to issue and sell, on or before March 15, 1923, for cash, at not less than 95 per cent of their face value and accrued interest $30,000 of 7 per cent notes payable on or before three years after the effective date of this order, and use the proceeds to pay indebtedness reported in its Exhibit No. 1 filed in this proceeding.

The authority herein granted is subject to the following conditions:

1. The authority herein granted will not become effective until the Commission has been advised that the unpaid assessment on applicant's capital stock, referred to in applicant's balance sheet of September 1, 1922, has been collected, or the proper final legal steps taken to enforce collection of the assessment.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee amounts to thirty dollars ($30).

3. Kerman Telephone Company shall keep such record of the issue and sale of the notes and the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the application in so far as it relates to the issue of $5000 face value of notes, be, and it is hereby, denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of November, 1922.

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Decision No. 11236.

IN THE MATTER OF THE APPLICATION OF HARRY D. RILEY FOR AN ORDER GRANTING PERMISSION TO TRANSFER AND SELL ALL HIS RIGHT, TITLE, AND INTEREST IN AN AUTOMOBILE PASSENGER TRANSPORTATION LINE, PERMISSION FOR THE OPERATION OF WHICH WAS GRANTED ON THE 30TH DAY OF JUNE, 1921, TO OPERATE BETWEEN THE INTERSECTION OF SOUTH LOS ANGELES STREET AND BROAD STREET IN THE CITY OF ANAHEIM AND THE BEEF PACKING PLANT OF THE ANAHEIM BEEF COMPANY NORTH OF SAID CITY OF ANAHEIM, AND ALL HIS RIGHT, TITLE AND INTEREST IN AND TO AN AUTOMOBILE PASSENGER TRANSPORTATION LINE, PERMISSION FOR WHICH WAS GRANTED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, ON THE 30TH DAY OF JUNE, 1921, TO OPERATE BETWEEN THE INTERSECTION OF EAST CENTER STREET AND EAST STREET IN SAID CITY TO THE PACKING HOUSE OF THE ANAHEIM COOPERATIVE ORANGE ASSOCIATION WEST OF SAID CITY, AND FOR PERMISSION TO DISCONTINUE SAID SERVICE, AND FOR PERMISSION TO ACCEPT A CHATTEL MORTGAGE UPON CERTAIN EQUIPMENT USED IN THE OPERATION OF SAID AUTOMOBILE PASSENGER TRANSPORTATION LINE, AS SECURITY FOR THE PAYMENT TO THE SAID HARRY D. RILEY OF THE PURCHASE PRICE OF ALL OF HIS RIGHT, TITLE, AND INTEREST IN AND TO SAID AUTOMOBILE PASSENGER TRANSPORTATION LINE, AND APPLICATION OF THOMAS R. CARPENTER FOR AN ORDER GRANTING PERMISSION TO PURCHASE AND OPERATE SAID AUTOMOBILE PASSENGER LINE THEREAFTER, AND FOR PERMISSION TO EXECUTE A CHATTEL MORTGAGE UPON CERTAIN EQUIPMENT USED IN THE OPERATION OF SAID AUTOMOBILE PASSENGER TRANSPORTATION LINE, AS SECURITY FOR THE PAYMENT OF THE PURCHASE PRICE THEREOF.

Application No. 8144.

Decided November 14, 1922.

TRANSFER—AUTO STAGE—FINANCIAL BURDEN—PUBLIC POLICY.—The Commission finds it against public policy to approve a transfer when the value of the property agreed upon requires applicant to assume an almost unsurmountable financial burden.

Ames and McFadden, by *Thos. L. McFadden*, for Applicants.

BY THE COMMISSION.

OPINION.

Harry D. Riley has asked authority of the Railroad Commission to sell and Thomas R. Carpenter has asked permission to buy the operating right now held by Riley under Decision No. 9198, and in which he acquired full title under Decision No. 9580. This operating right is for an automobile passenger service between the city of Anaheim and the plants of the Anaheim Beef Company and the Anaheim Cooperative Orange Association, and other points. The business is conducted under the fictitious name of the Anaheim Transit Company.

The consideration for the transfer is $5000, of which $1000 is stated to be for the operating right, and the remainder for equipment, consisting of two 15-passenger stages, one six and one seven years old.

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This consideration is payable $1000 down and the remainder at the rate of $50 a month, including 8 per cent interest on deferred principal until paid out, secured by chattel mortgage on the equipment.

Applicant Riley admitted that the value of the equipment was not as great as stated in the application. Considering the age of the chassis in use $1000 may be regarded as maximum value for both. The bodies cost $1100 each, a year ago, and both may be estimated now at $2000. The fair value of all the equipment is approximately $3000. This leaves a remainder of $1000 which must be regarded as premium upon the whole transaction, or an excessive value.

Considering the character of the equipment and the terms of the chattel mortgage, it is apparent that applicant, Carpenter, is undertaking a contract that imperils his future ability to conduct the service efficiently. The chassis, at least, is in a perilous stage of obsolescence, even if usable now. Renewal must be made ere long. This requires a capital investment and there was no testimony as to Carpenter's ability so to do. He has been a driver for Riley at a salary of $125 per month.

The terms of the mortgage require the payment of $50 per month, including interest on a principal charge of $4000 at 8 per cent per annum. On such a basis, it would require about ten years to discharge the debt. Applicant Riley testified that the profits had not been over $50 a month, with no provision for depreciation nor return on investment. A statement of revenues and expenses filed by applicant Riley, under oath, shows the net over operating expenses, from January 1 to September 30, 1922, to be $34.62 a month. Riley testified that additional revenue, probably $150 a month, is to be expected when certain industries resume operations. This exhibit upon analysis appears to be erroneous for the following reason:

The number of passengers therein reported for a period of nine months is 74,960 and the gross revenue received is expressed as $3,748.01. The present operator, Harry D. Riley, applicant herein, is entitled under his tariff to charge two classes of fares, one a 10 cent cash fare, the other a 6 cent fare being a commutation fare and applicable when a book of 25 rides is purchased. If all the fares collected by applicant were commutation fares at 6 cents each, the gross rates would result in an amount of $4,497.60 which it will be noted is $749.59 more than the total receipts as expressed in the applicant's exhibit of revenue and expense as filed herein. It is therefore proper to assume that the exhibit filed does not properly present the operating revenues stated to have been collected, as undoubtedly a considerable portion of the traffic of applicant Riley has been carried at the 10 cent cash fare.

The entire result of applicant Riley's operation after a year's experience shows a net profit of but $34.62 per month and such operation has been conducted with badly depreciated equipment of a character that

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must be considered practically obsolescent. There is no evidence in this proceeding giving any assurance that the future operation will result in increased or larger revenues and it follows that the value agreed upon by applicants in this proceeding, when such value requires the applicant who would hereafter undertake an operating line to assume an almost unsurmountable financial burden, would result in a serious doubt as to the ability of the purchasing applicant to continue adequate and efficient service to the public which he would be obligated to do should the desired transfer be granted.

We are of the opinion and hereby find as a fact, that the granting of this application under the terms and conditions of the agreement between the applicants and upon which they rely as evidencing the financial and other arrangements proposed and in support of their application, would be against public policy. If applicant proposing to purchase was unable to successfully carry out the purchase contract proposed, by reason of revenue received from operation, and in addition make such financial investment as would be necessary to keep safe and adequate equipment on the line, his only recourse would be an application for increased rates or an application for authority to suspend and discontinue service. Under all the circumstances revealed by the evidence in this proceeding, no showing has been made justifying the Commission in granting the application.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised, and basing its order on the finding of fact as set forth in the above opinion,

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this fourteenth day of November, 1922.

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DECISION No. 11237.

IN THE MATTER OF THE APPLICATION OF JOE BESONE, OPERATING UNDER THE NAME OF BESONE'S MOTOR EXPRESS; FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONTINUE IN OPERATION THE ESTABLISHED THROUGH ROUTE AND THROUGH RATES BETWEEN BAKERSFIELD AND MARICOPA AND McKITTRICK, VIA TAFT.

Application No. 8241.

Decided November 14, 1922.

Gwyn H. Baker, for applicant.
Chas. H. Hare, in propria persona, operating as Valley Coast Lines.
C. C. Haworth, for Rhyne and Rhyne Stage Company and Kern County Transportation Company.
L. N. Bradshaw, for Southern Pacific Company.
E. T. Lucey, for Sunset Railway.
T. N. Woods, for American Railway Express Company.
T. Del Porto, for Bakersfield-Lost Hills Stage Line.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Bakersfield on the above entitled application seeking authority to continue in operation established through route and through rates between Bakersfield and Maricopa and all intermediate points and between Bakersfield and McKittrick and all intermediate points, the application being made because of the Commission's Decision No. 9892 of December 20, 1921, in the matter of the application of Western Motor Transport Company for certificate of public convenience and necessity to operate auto stage line for transportation of passengers between Rodeo-Livermore and intermediate points, to the effect that the granting of authority to operate separate local routes, which if united would form a through route, does not of itself authorize through service over the several local routes.

It appears from the testimony that applicant has been operating since 1918 between Bakersfield, Taft and Fellows and that by Decision No. 7784 of June 24, 1920, upon Application No. 5395, the record of which was placed in evidence herein, he was granted authority to operate between Fellows and McKittrick on the one hand and between Taft and Maricopa on the other, but the order did not expressly authorize through operation nor operation of these units as a portion of or an extension of the line originally operated between Bakersfield, Taft and Fellows, although it appears from recitals of the above opinion, that service between Bakersfield as a distributing and supply point, and the towns in the west side oil fields, including the four above referred

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to, was needed by the shipping public, it appearing therein that rail service was unsatisfactory.

It further appears from the testimony of applicant herein that the general traffic situation and method of movement remains substantially the same as at the time of the above hearing, except that his business is considerably heavier and that he has in operation equipment to handle 50 tons a day.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby certifies that public convenience and necessity requires the operation by Joe Besone, operating under the fictitious name of Joe Besone's Service Motor Express, of a local and through service for the common carriage of freight between Bakersfield, Taft, Fellows and Maricopa, and between Bakersfield, Taft, Fellows and McKittrick.

1. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

3. *It is hereby ordered,* that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

4. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this fourteenth day of November, 1922.

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DECISION No. 11239.

IN THE MATTER OF THE APPLICATION OF THE RIVERBANK WATER COMPANY FOR PERMISSION TO REDUCE WATER RATES.

Application No. 7975.

Decided November 16, 1922.

C. L. Flack, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Riverbank Water Company, a public utility engaged in the service of water to the inhabitants of Riverbank and Hughson, Stanislaus County, asks authority to increase its monthly minimum charge from one dollar ($1) to one dollar and twenty-five cents ($1.25) for 400 cubic feet of water and to reduce the charge for all water used in excess of this minimum amount to 7½ cents per 100 cubic feet. The applicant believes that by making this adjustment the residents of Riverbank and Hughson will be induced to put in lawns and gardens and otherwise beautify the towns, thereby increasing the use of water and the income derived therefrom, eventually making up for any loss incurred by reason of the requested adjustment.

Attached to the application was a petition signed by practically every consumer in both Riverbank and Hughson, requesting that authority for the change be granted.

A public hearing in this matter was held in Riverbank before Examiner Satterwhite, of which all consumers were notified and given an opportunity to be present and be heard.

The Riverbank Water Company was incorporated in 1911 for the purpose of serving water to the then unincorporated town of Riverbank, and the system was installed during the same year. The Hughson system was installed about the same time and was acquired by the Riverbank Water Company in 1914, by authority of the Commission in Decision No. 1735, dated August 14, 1914.

Water in both towns is obtained from wells, from which it is elevated to storage tanks by pumping and then distributed to the users by gravity.

The company has about 354 consumers, including two large industrial users, The Atchison, Topeka and Santa Fe Railway at Riverbank and the Hughson Condensed Milk Company at Hughson, each using over 300,000 cubic feet of water per month. A contract has been entered into with these two consumers whereby they are given an unauthorized rate of 4½ cents per 100 cubic feet, because of their large use of water.

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At the hearing applicant did not present an appraisal of the system but relied upon a book value of $60,036.21 as an indication of the cost of the system. Reference was also made to the annual reports of the company filed with the Commission, for past maintenance and operating cost.

Mr. R. H. Nicholson, one of the Commission's hydraulic engineers, submitted a report based upon a field investigation of the system and of the company's records, showing the estimated original cost of the system to be $67,252.00, a replacement annuity computed upon the 6 per cent sinking fund basis of $1,214, and a reasonable amount for maintenance and operation expense to be $9,605.

The difference in the book value of the system and the estimate submitted by the Commission's engineer appears to be due to omissions in the books, as the company records are not entirely complete. There were no objections made to the estimate submitted by Mr. Nicholson.

Annual charges, based upon the figures of the Commission's engineer, are as follows:

Return on $67,252 @ 8 per cent	$5,380 00
Depreciation annuity	1,214 00
Maintenance and operation expense	9,605 00
Total	$16,199 00

The rates now charged are as follows:

First 400 cubic feet (minimum charge)	$1.00	per month
Next 2,000 cubic feet per 100 cubic feet	.15	per month
All over 2,400 cubic feet per 100 cubic feet	.10	per month
For 70,000 cubic feet or more of water used in one calendar month through one service by one consumer	.07½	per 100 cubic feet
Unauthorized contract rate charged The Atchison, Topeka and Santa Fe Railway and the Hughson Condensed Milk Company	.04½	per 100 cubic feet

The revenue from the sale of water in 1919 was $14,572.11; in 1920, $14,244.97; in 1921, $14,121.42. It is estimated that the revenue for 1922, at the present rates, will be approximately $16,000, which is nearly the amount of the annual charges indicated above.

The rates requested by the company in Application No. 7975 are as follows:

First 400 cubic feet (minimum charge)	$1.25	per month
All over 400 cubic feet per 100 cubic feet	.07½	per month

At the hearing it was requested that the Commission authorize a flat rate of 4½ cents for The Atchison, Topeka and Santa Fe Railway and the Hughson Condensed Milk Company.

The Commission's engineer estimated that the rates requested would have the effect of decreasing the yearly income of the company by approximately $900. However, such a schedule of rates as requested would not be equitable in that the small consumer would be called upon

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to pay an unjust rate in comparison to that paid by the larger consumers. A lower minimum with a gradual reduction of rate for larger quantities, such as contained in the schedule now in effect for this company, is far more equitable. The rate schedule set forth in the following order is designed to adjust the inequalities which are evident in the existing schedule, and at the same time to yield annually a sum to the utility which is fair and proper when the present overbuilt condition of the properties is taken into consideration.

ORDER.

The Riverbank Water Company having applied to this Commission for authority to charge certain rates, a public hearing having been held thereon and the matter being now submitted,

It is hereby found as a fact that the rates now charged by the Riverbank Water Company in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates for water delivered the consumers in Riverbank, Hughson and vicinity.

And basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the Riverbank Water Company be and it is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for water supplied to its consumers, effective for all water delivered subsequent to November 30, 1922:

Monthly Charges.

First	400 cubic feet	$1.00	(minimum charge)
Next	2,000 cubic feet	.15	per 100 cubic feet
Over	2,400 cubic feet and less than 20,000 cubic feet	.07½	per 100 cubic feet
All over	20,000 cubic feet	.04½	per 100 cubic feet

It is hereby further ordered, that the Riverbank Water Company be and it is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this sixteenth day of November, 1922.

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DECISION NO. 11240.

IN THE MATTER OF THE APPLICATION OF STUART DARLING FOR AN ORDER BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, INCREASING RATES FOR THE SALE OF GAS.

Application No. 8129.

Decided November 16, 1922.

BY THE COMMISSION.

OPINION.

This is an application for the establishment of rates, by Stuart Darling, who operates a gas system for the production and distribution of natural gas for domestic and commercial purposes in the town of Summerland, this business being conducted solely under the management of Stuart Darling, and not as a company or corporation. A public hearing was held in Summerland on October 19, 1922, before Examiner Satterwhite, at which time evidence was taken and the matter submitted.

Applicant has been engaged in distributing natural gas from several shallow gas wells in the town of Summerland since about 1892. There have been few opportunities for material increases in the business and at the present time only about fifty consumers are served. The system has been built in an irregular manner and customary standards of gas engineering practice have not been followed. Because of the limited nature of the enterprise from a commercial standpoint, applicant has conducted the business more or less as a neighborhood affair and has failed to keep full detailed records of his operations as prescribed by the Railroad Commission for public utility corporations.

Investigation of such applicant's records as were available was made by the Commission's auditing and engineering departments and the following figures of capital investment were obtained, amounting to a total of $7,380.14 which it appears may be considered as reasonable basis for rate-fixing purposes. Applicant has done the major portion of the construction work himself and has, therefore, been able to install the equipment at less cost than is usual:

Summary of Capital Invested.

Land	$360 00
Gas wells	3,000 00
Buildings	64 00
Holders	75 00
Gas engines	150 00
Accessories	170 60
Miscellaneous production equipment	606 00
Distribution mains	1,180 70
Services	235 70
Meters	636 00

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General office equipment	96 64
General shop equipment	323 50
Garage equipment	275 00
Undistributed construction expense	207 00
Total	$7,380 14

Evidence submitted by applicant indicates that reasonable operating expenses and the revenue for the calendar year 1921 were as follows:

Production expense (electric power)	$190 42
Distribution expense	616 00
Commercial expense	115 70
General expense	365 00
Taxes	42 20
Total operating expenses	$1,329 32
Revenue from the sale of gas	1,316 52
Deficit below operating expenses	$12 80

Obviously the above figure for net return upon the properties is unreasonable, especially as no depreciation was charged.

It is to be further noted that according to testimony of applicant, considerable of his time has been devoted to the business, for which he has in the past made no charge.

Testimony was presented by several of applicant's consumers complaining that service conditions were in their cases unsatisfactory due to low gas pressure and general insufficiency of supply. It is to be noted that the quality of natural gas furnished by applicant is very low, showing by chemical analysis only 461 British thermal units per cubic foot and containing about 6 per cent air, due to leakage on suction lines, also 1.5 per cent of hydrogen sulphide which causes a heavy corrosion of the interior of the pipe lines resulting in frequent stoppages. Investigation by the Commission's engineers indicates clearly that certain measures are necessary in order to properly improve service conditions.

In the past applicant has so failed to earn a fair return that he has had no funds available for the improvement of service. It is now incumbent upon applicant to make certain immediate betterments to his plant, and in view of the existing conditions this Commission should recognize in fixing rates the necessary expenditures for the improvement of service.

The following tabulation sets forth an estimate of applicant's operating expenses for the calendar year 1923 with provisions for more maintenance of the distribution system than has been given in the past. An allowance is also made for purifying the gas and other necessary expenses.

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Estimated Operating Expenses 1923.

Production expense	$310 00
Distribution expenses	750 00
Commercial expenses	115 00
General expense	350 00
Taxes	50 00
Total estimated operating expenses	$1,575 00

During the year 1921, reported gas sales amounted to 2,844,000 cubic feet, and upon this basis with fifty consumers, average sales would have been approximately 4750 cubic feet per consumer per month. The existing rates are $1 for the first one thousand cubic feet, 70 cents for the next thousand, and 50 cents per thousand cubic feet for all additional gas. Apparently because of the fact that certain consumers are served upon a flat rate schedule and much gas was donated to churches and other charitable purposes, the average net rate received was only 46 cents per M cubic feet, whereas an average of about 65 cents per M cubic feet should have been realized with metered service. It is very evident that applicant can only expect to earn a reasonable return upon his investment by the sale of gas entirely according to meter registration. The rates hereinafter set forth should yield applicant an average of about $0.89 per M cubic feet and provide a reasonable amount for operating expenses together with an allowance for interest and depreciation.

We submit the following form of order:

ORDER.

Stuart Darling having applied to the Railroad Commission for an order granting authority to increase his rates and charges for gas service to his consumers, a public hearing having been held and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by Stuart Darling, in so far as they differ from the rates herein fixed, are not just and reasonable rates, and that the rates herein established are just and reasonable rates for gas for domestic and commercial service.

Basing its order upon the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Stuart Darling be and he is hereby authorized to charge and collect the following rates for gas for domestic and commercial purposes in the town of Summerland, which rates shall be effective for all regular meter readings taken on and after the first day of December, 1922:

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General service:

Applicable to domestic and commercial service for lighting, heating, cooking or power purposes.

Rate:

First	1000 cubic feet or less per meter per month	$1 25
Next	1000 cubic feet per meter per month	1 00
All over	2000 cubic feet per meter per month	@ 75 per M cubic feet

It is hereby further ordered, That Stuart Darling shall install and properly operate a device approved by the Railroad Commission for the purification of natural gas sold by him.

It is hereby further ordered, That Stuart Darling shall file with the Railroad Commission on or before November 15, 1922, the schedule of rates and charges herein set forth.

Dated at San Francisco, California, this sixteenth day of November, 1922.

DECISION No. 11242.

IN THE MATTER OF THE APPLICATION OF THE LOOKOUT MOUNTAIN PARK LAND AND WATER COMPANY, A CORPORATION, FOR INCREASE AND ADJUSTMENT OF RATES AND RULES FOR WATER SERVICE UPON THEIR SUBDIVISION IN LOS ANGELES COUNTY, CALIFORNIA.

Application No. 8112.

Decided November 16, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 10957 in Application No. 8112, dated September 7, 1922, authorized and directed applicant, Lookout Mountain Park Land and Water Company, to file with the Commission a certain schedule of rates, such rates to become effective as directed in a supplemental order of this Commission to be issued after satisfactory compliance with certain requirements of said Decision No. 10957 providing for improvement of its water service, these requirements contemplating the reduction of excessive pressures to those of its consumers on the lower portion of its system and such repairs to its reservoirs as would make safe from outside pollution the quality of the water stored in its reservoirs, and

Whereas, the applicant has completed satisfactory improvements to its reservoirs and has submitted evidence to show that practically all consumers on the lower portion of the system are satisfied with the service subsequent to the installation of meters and of an electric motor to replace the gas engine formerly used, and has expressed its

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willingness to install pressure reducers in any instances where such installation is found necessary,

And it now appearing that applicant should be authorized to charge for all service rendered in accordance with the schedule outlined in the order of the Commission's Decision No. 10957, referred to above;

It is hereby ordered, by the Railroad Commission of the State of California that the Lookout Mountain Park Land and Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days of the date of this order the schedule of rates outlined in the order of the Commission's Decision No. 10957, in Application No. 8112, dated September 7, 1922, and charge in accordance with this schedule for all service rendered on and after December 1, 1922.

Dated at San Francisco, California, this sixteenth day of November, 1922.

DECISION NO. 11243.

IN THE MATTER OF APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER REVISING THE BASE RATE FOR GAS SERVICE AS HERETOFORE FIXED BY DECISION No. 9397, CASE No. 1611.

Application No. 8173.

Decided November 18, 1922.

RATES—GAS UTILITY—EFFICIENCY—FULL FAIR RETURN.—To warrant a full fair return applicant must attain a degree of efficiency comparable with that reached by other utilities similarly situated.

RATES—REHABILITATION OF PLANT—AMORTIZATION.—The Commission holds that the initial expense of rehabilitating old equipment should not be treated as an annual charge in a general rate proceeding, but should be spread over several years' operation.

James F. Pollard, for Applicant.
H. G. Jorgensen, for City of Pacific Grove.

BY THE COMMISSION.

OPINION.

This is an application of Coast Valleys Gas and Electric Company for a revision of its rates for gas service as fixed by Decision No. 9397 in Case No. 1611, dated August 23, 1921. Applicant alleges that the estimates of the Commission in that proceeding have not been realized and that its gas rates are insufficient to yield a fair and reasonable return upon its investment.

A public hearing was held before Examiner Eddy in Salinas on September 25, 1922, and the matter thereupon submitted.

Applicant maintains and operates gas plants in the cities of Salinas and Monterey and from the latter plant it also distributes gas in the

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city of Pacific Grove. The rates fixed by Decision No. 9397 were designed to vary in proportion to the price paid for oil. The basic rates became effective on October 1, 1921, and reductions in these rates totaling fifteen cents per thousand cubic feet have been made as a result of decreases in the cost of oil to the utility. It is the reasonableness of these basic rates which is now questioned by the utility.

The evidence in this proceeding shows that Coast Valleys Gas and Electric Company is making a commendable effort to improve its gas service in Monterey and Pacific Grove. A complete new gas-generating unit is nearing completion at the Monterey plant and plans are being made for the construction of an additional high-pressure main to serve Pacific Grove. It is contended that the cost of these, and other improvements contemplated, will materially increase the investment upon which the utility is entitled to a fair return, but in the opinion of the Commission, their operation should also result in such increased efficiencies and economies as to enable the utility to serve its consumers at a more reasonable cost than heretofore.

The reasonable investment in the gas department and the estimated rate base for the ensuing year is as follows:

RATE BASE.

Fixed capital December 31, 1920 (Decision No. 9397)	$264,999 50
Additions and betterments to July 31, 1922	29,702 85
General capital gas department July 31, 1922	17,336 14
Total fixed capital as of July 31, 1922	$312,038 49
Estimated average additions and betterments for year ending September 30, 1923	63,000 00
Estimated average capital for year ending September 30, 1923	$375,038 49
Average month's oil requirements	2,100 00
Materials and supplies	7,500 00
Working cash capital	9,250 00
Total rate base gas department	$393,888 49

The utility submitted in evidence a tabulation showing actual operating expense incurred in the past, together with an estimate of expenses expected to be incurred in the coming year. The company's estimates have been carefully checked by the Commission's engineering department. It appears that the company has not given sufficient consideration to the increase in efficiency which should be obtained in operating its new equipment in Monterey.

The revised estimates included in the following table are reasonable, based upon a degree of efficiency comparable with that reached by other utilities similarly situated, and this degree of efficiency must be attained if a full fair return is to be had. The duty of oil is estimated at 13 gallons per one thousand cubic feet sold and it is expected that

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this efficiency will be improved upon with the new generating equipment in operation. The cost of oil is estimated on the basis of the present prices of $1 per barrel at Monterey and $1.15 per barrel at Salinas. A slight reduction has been made in the company's estimated expense for the maintenance of the Monterey gas plant. Due to the character and condition of the equipment installed, the cost of keeping this plant in repair has in the past been necessarily high, but with the new equipment it is expected that this expense will become more reasonable, and comparable to that incurred in similar plants. The Commission realizes that the initial expense of rehabilitating the old equipment will be high, but feels that this should not be considered as an annual charge in a general rate proceeding, but should be spread over several years' operation.

Estimated Expenses For Year Ending September 30, 1923.

Production expenses:	
Oil	$26,000 00
Other production expense	28,400 00
Distribution expense	11,350 00
Commercial expense	8,500 00
General expense	8,900 00
Taxes	10,300 00
Total expense exclusive of depreciation	$93,450 00
Depreciation	11,500 00
Uncollectible bills	680 00
Total	$105,630 00
Fair return (8% on rate base)	31,511 00
Revenue required	$137,141 00

It is estimated that 79,300,000 cubic feet of gas will be sold during the period in question and in order that the required revenue be collected it will be necessary that the rates yield an average price of $1.74 per thousand cubic feet. The schedules now in effect will yield an average revenue for the entire territory served of approximately $1.70 per thousand cubic feet based on the same estimate of sales. From this it appears that some relief is needed.

The detail of the evidence before the Commission indicates in addition the desirability of modifying the present schedules to distribute the burden more equitably between gas consumers in Salinas and those in Monterey and Pacific Grove, and to install a schedule with blocks corresponding to those now in use by utilities similarly situated.

The schedule hereinafter set forth is designed to yield an average revenue of $1.74 per thousand cubic feet at the present price of oil. The clause by which the rate is made to vary in proportion to the price of oil has been retained with some slight modifications.

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ORDER.

Coast Valleys Gas and Electric Company having applied to the Railroad Commission for an order revising its rates and charges for gas service in Salinas, Monterey and Pacific Grove, a public hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rates heretofore fixed in its Decision No. 9397 should be modified to conform with the schedule herein set forth and that the rates herein set forth are just and reasonable rates to be charged for gas service by Coast Valleys Gas and Electric Company.

Basing its order on the foregoing findings of fact and on the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Coast Valleys Gas and Electric Company file with the Commission within ten days of the date of this order, the following basic schedule of rates, which are the rates to be charged and collected for gas service in its entire territory when the price paid for oil is $1.75 per barrel or over f.o.b. Salinas or Monterey.

SCHEDULE OF RATES.

General Service.

Artificial Gas.

Applicable to domestic and commercial service.

Territory.

Applicable to the incorporated cities of Monterey, Pacific Grove and Salinas, and adjacent territory thereto.

Rate.

First	500 cubic feet or less per meter per month		$1 10
Next	2,500 cubic feet per meter per month	$2 00	per M. cubic feet
Next	5,000 cubic feet per meter per month	1 65	per M. cubic feet
Next	7,000 cubic feet per meter per month	1 45	per M. cubic feet
All over	15,000 cubic feet per meter per month	1 25	per M. cubic feet

The above rates are subject to decrease on the basis of 3 cents per 1000 cubic feet for each 10-cent decrease in the price of oil below $1.75 per barrel f.o.b. Salinas or Monterey upon order of the Railroad Commission of the State of California. Change to be to the nearest 1-cent per 1000 cubic feet.

It is hereby further ordered, that

1. The schedule above is hereby reduced 22 cents per 1000 cubic feet effective for all regular meter readings taken in the cities of Monterey and Pacific Grove and adjacent territory on and after the fifteenth day of December, 1922.

2. The schedule above is hereby reduced 18 cents per 1000 cubic feet effective for all regular meter readings taken in the city of Salinas and adjacent territory on and after the fifteenth day of December, 1922.

3. In case of a reduction in the price paid for oil, Coast Valleys Gas and Electric Company shall file within ten days thereafter an

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affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedules herein set forth.

4. Should at any time an increase in the price paid for oil occur, Coast Valleys Gas and Electric Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedules herein set forth.

5. Coast Valleys Gas and Electric Company shall, within ten days of the date of this order, file with the Commission, schedules of rates to comply with Sections 1 and 2 of this order.

Dated at San Francisco, California, this eighteenth day of November, 1922.

DECISION NO. 11244.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF SISKIYOU COUNTY FOR PERMISSION TO CONSTRUCT A CROSSING AT GRADE ACROSS THE TRACK OF SOUTHERN PACIFIC COMPANY IN SECTION 18, TOWNSHIP 44 NORTH, RANGE 1 WEST, M. D. B. AND M., SISKIYOU COUNTY, STATE OF CALIFORNIA.

Application No. 8201.

Decided November 18, 1922.

CROSSINGS—RAILROAD—COSTS—ASSESSMENT OF.—The Commission announces that the usual practice is to assess cost of road crossings to applicant, but in the present case the costs are assessed to the railroad as the proposed crossing will eliminate two hazardous crossings. The benefit to the railroad, it is held, justifies it bearing the cost.

J. A. Ager, Chairman, Board of Supervisors of Siskiyou County, representing the County of Siskiyou.
H. J. Sarter, County Surveyor of Siskiyou County, representing the County of Siskiyou.
J. A. Given, Division Engineer, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

This is an application filed as a viewers' petition under section 2694 of the Political Code for authority to establish a public highway crossing at grade across the railroad of the Southern Pacific Company, hereinafter called railroad, Klamath Falls Branch, in section 18, township 44 north, range 1 west, M. D. B. and M., between engineer stations 712 and 713, between mile posts 382 and 383, of said railroad.

A public hearing was held in Yreka October 10, 1922, before Examiner Geary.

The proposed crossing is located on a piece of new road, approximately one-half mile in length, proposed to be constructed between two

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existing public roads and, according to the application, intended to replace two existing grade crossings alleged to be very dangerous located on either side of the proposed crossing. One of the existing crossings is located approximately 1000 feet westerly and one approximately 1400 feet easterly, from the proposed crossing.

Section 2694 of the Political Code provides that wherever the general route of a county road to be abandoned, altered or constructed be shown by the petition provided for by section 2682 of this code to cross the track or right of way of any railroad, the county clerk shall immediately, upon the appointment of viewers by the board of supervisors, transmit to this Commission a certified copy of the petition and of the order appointing viewers. This Commission is then required to hold a hearing and at this hearing, and upon the evidence introduced, the Commission shall determine whether the proposed road shall be constructed across the railroad at grade or otherwise and shall determine and prescribe the manner, including the particular point of crossing and the terms of installation, operation and maintenance, use and protection of the crossing.

At the hearing the chairman of the board of supervisors stated that the county wanted the railroad to construct the crossing herein at its own expense. In explanation of this position the county stated that at the time the railroad was constructed there was a county road in existence which crossed the right of way at or about engineer station 709 and that to avoid making a crossing at this point, which would have entailed considerable expense, because of a high fill, the railroad, without the authority from the county, moved the location of the crossing to or about engineer station 703 (the westerly existing crossing above mentioned). The railroad was unable to state whether or not any arrangements had been made as to moving the old county road, but has later by letter advised that it was unable to find any documents or correspondence regarding this matter.

Applicant contends that it still holds a right of way for public road approximately along the township line where the road extended prior to the construction of the railroad and that the roads leading to the two existing crossings are not public roads, never having been accepted as such. The evidence indicates, however, that these two roads have been publicly used for approximately twelve years.

All parties, including an engineer of the Commission, agreed that the two existing crossings are very dangerous and that the hazard of crossing would be very materially reduced at the proposed crossing.

Applicant's Exhibit No. 2 estimated the cost of the construction of the 2386 feet of new road consisting of cleaning brush and rock at

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$100, with an addition of $200 for grading the approaches on the proposed crossing. The railroad estimates the cost of constructing the new road at $225 and the cost of relocating the crossing, including crossing signs and guard rails, at $290, a total of $515, which is within $15 of the estimate of the Commission's engineer presented at the hearing. None of these figures include the cost of the right of way for the new road, which the county stated would be donated.

There appears to be no doubt that the establishment of the new crossing, provided the old crossings were closed, would be in the interest of public safety and that the cost of changing the crossings is justified. With these conclusions there remains to be decided the division of cost.

As stated above the county believes the railroad should bear the whole cost; the railroad believes the cost should be divided, but does not indicate any particular division. If this were a proceeding involving only the establishment of a new crossing, the Commission probably would, in conformity with its practice, assess all of the cost on the applicant. In this proceeding, however, we have one new crossing replacing two hazardous crossings. The railroad is benefited by this change and it appears that the benefit is not inadequately measured by the cost of moving the crossing. To make the new crossing usable requires the construction of a new road about one-half mile long outside of the railroad right of way, but it does not appear as though a decision by this Commission in this proceeding could extend to assessing to anyone the cost of this new road, which, according to the estimates, would cost between $100 and $200. Under these circumstances it appears equitable that if a new crossing is installed the railroad should pay all of the cost, including the cost of abandoning the two existing crossings. The county will have to bear the expense of the new roadway, except the new crossing and its approaches.

ORDER.

The board of supervisors of the county of Siskiyou having filed with the Commission an application to construct a public road across the track of Southern Pacific Company at grade as hereinafter indicated, a public hearing having been held, the matter having been submitted and it appearing to the Commission that the application should be granted subject to the conditions hereinafter specified;

It is hereby ordered, that permission be and it is hereby granted the board of supervisors of the county of Siskiyou, State of California, to construct a public road at grade across the track of Southern Pacific Company in section 18, township 44 north, range 1 west, M. D. B. and

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M., the center line of said road being as shown on applicant's Exhibit No. 1 and the point of crossing being described as follows, to wit:

Beginning at the section corner common to sections 13 and 24, township 44 north, range 2 west and sections 18 and 19, township 44 north, range 1 west, thence north 83° 57′ west, 159 feet, thence north 22° 18′ east, 540 feet more or less, to the center line of said railroad; at engineer station 712 plus 50 thereof.

Said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing said crossing, including approach embankments, shall be borne by Southern Pacific Company. The maintenance of that portion of the crossing between the rails and two (2) feet outside thereof shall be borne by Southern Pacific Company. The cost of its maintenance up to a line two (2) feet outside the rails shall be borne by the applicant.

(2) The crossing shall be constructed of a width not less than 20 feet and at an angle of 90 degrees to the railroad and with grade of approach not greater than 6 per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) The crossings located approximately 1000 feet west and 1400 feet east (measured along the track of said railroad) from the crossing herein authorized shall be legally abandoned and effectively closed to public use and travel. The expense of the abandonment of said existing crossings shall be borne by Southern Pacific Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this eighteenth day of November, 1922.

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DECISION No. 11245.

IN THE MATTER OF THE APPLICATION OF PACIFIC SOUTHWESTERN RAILROAD COMPANY TO ISSUE AND SELL STOCK.

Application No. 8299.

Decided November 18, 1922.

E. J. Foulds, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Southwestern Railroad Company asks permission to issue and sell, at par, $100,000 of its common stock for the purpose of financing the cost of acquiring rights of way and of constructing a standard gauge railroad.

A public hearing in this proceeding was held before Examiner Williams in Los Angeles on November 10, 1922.

The record shows that Pacific Southwestern Railroad Company was organized on or about September 8, 1922, with an authorized capital stock of $100,000 divided into 1000 shares of the par value of $100 each, all shares being common. The company proposes to construct a railroad of standard gauge from Lompoc on the line of the Southern Pacific Railroad Company in Santa Barbara County to a point known as White Hills, a distance of about four miles.

The record shows that applicant was organized and will operate as a common carrier of both passengers and freight, but that the bulk of its business will consist in moving freight of the Celite Company, an industrial corporation located at White Hills and engaged in the production of earthen commodities. It appears that the Celite Company at present is moving about 2000 carloads of freight a year by truck between White Hills and Lompoc, and that this business hereafter will be handled by applicant. It is thought that additional business will be developed in the White Hills district. Applicant's officials estimate that the gross operating revenue will be about $32,000 a year and its expenses $25,000 a year.

R. J. Wig, applicant's vice president, testified that the company must expend approximately $8,000 in obtaining rights of way, and $90,000 in constructing its road. It seems that the company will acquire little, if any, equipment, the freight being carried in cars leased from the Southern Pacific Company. It is of record that applicant will issue and sell only so much of the stock now applied for as will be necessary to obtain the funds needed for the purposes indicated herein, and that any stock so issued will be purchased by the Celite Company at its par value.

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ORDER.

Pacific Southwestern Railroad Company having applied to the Railroad Commission for permission to issue and sell $100,000 of its common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Southwestern Railroad Company be and it is hereby authorized to issue and sell, at not less than par value, on or before April 30, 1923, not exceeding $100,000 of its common capital stock, and to use the proceeds for the purpose of acquiring rights of way and constructing its line of railroad referred to in the foregoing opinion; provded

That applicant will keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighteenth day of November, 1922.

DECISION No. 11247.

W. P. FULLER AND COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1763.

Decided November 18, 1922.

RATES—RAILROAD—FEDERAL GUARANTY PERIOD—JURISDICTION.—The Commission holds that under section 208 of the Transportation Act, it had jurisdiction during the guaranty period to entertain complaints concerning rates, to hold hearings and to determine the reasonableness of the rates under attack.

RATES—REDUCTION—APPROVAL OF INTERSTATE COMMERCE COMMISSION NECESSARY.—A finding by the State Commission that an existing rate was unreasonable and would be unreasonable for the future, required the approval of the Interstate Commerce Commission before any order could be entered requiring a reduction.

RATES—FEDERAL GUARANTY PERIOD—REPARATION—JURISDICTION.—In view of the specific language contained in section 208, that existing rates shall continue "until" hereafter changed by state or federal authority, the Commission finds

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no warrant for holding that it may enter an award of reparation in connection with intrastate shipments moving during the federal guaranty period.

Gwyn H. Baker, for Complainant.
F. B. Austin and *C. J. Cunco*, for Defendant.

BY THE COMMISSION.

OPINION.

In this complaint it is alleged that the rate of 7 cents per 100 pounds charged for the transportation of 8 carloads of fuel oil from San Francisco to South San Francisco between May 10, 1920, and August 17, 1920, was unreasonable and unduly discriminatory to the extent that it exceeded a rate of 3 cents contemporaneously in effect between these points on practically all other commodities. Following our Decision No. 7983, of August 17, 1920, the 7 cent rate was increased to 9 cents and the rate on the other commodities was increased from 3 cents to 4 cents. The complainant herein, on October 24, 1921, filed with us a complaint, Case No. 1684, attacking as unreasonable and unjustly discriminatory to the extent that it exceeded by 4 cents, the rate of 9 cents charged on 24 carloads of fuel oil which moved from San Francisco to South San Francisco between September 1, 1920, and July 31, 1921. We dismissed the latter proceeding on March 7, 1922, Decision No. 10159. In the meantime complainant had filed with the Interstate Commerce Commission a complaint attacking as unreasonable the rate of 7 cents charged on certain shipments made between May and September, 1920, or during the so-called "federal guaranty" period, and asking reparation to the basis of 3 cents. That complaint was heard by the federal commission on March 30, 1922. In view, however, of a general announcement by the latter commission on April 15, 1922, that it was not authorized under section 208 (*a*) of the Transportation Act, 1920, "to award or to consent to an award of reparation made by a State Commission on intrastate shipments which moved during the guaranty period of March 1 to September 1, 1920," a complaint was filed with us. The complainant is interested only in reparation, since under our Decision No. 8960, of May 12, 1921, by virtue of which South San Francisco was brought within the switching limits of San Francisco, the rate on fuel oil from San Francisco to South San Francisco was reduced to 2½ cents, which latter rate is still in effect.

A brief outline of the history of the rate involved will be helpful to an understanding of the issue. Prior to June 25, 1918, the rate on all freight between San Francisco and South San Francisco was 2.5 cents per 100 pounds. By general Order No. 28 of the Director General of

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Railroads, effective on the date last mentioned, rates on practically all commodities were increased 25 per cent. The 2.5 cent rate on fuel oil above referred to thereupon became 3 cents. Even before the new rates became effective representation was made to the Railroad Administration, particularly by independent operators, that the percentage increase not only disturbed preexisting relationships, but operated to their disadvantage since their shipments generally moved over longer distances than those made by the Standard Oil Company. They asked for a flat increase in lieu of the percentage increase, which substitution was recommended by the Oil Division of the United States Fuel Administration and the National War Petroleum Service Committee, the latter comprising representatives of producers, refiners, and jobbers, including the Standard Oil interests, and was subsequently approved by the Director General. The Railroad Administration having reached the conclusion, after investigation, that a uniform increase of 4½ cents in all petroleum rates would yield approximately the same revenue as the percentage increase, issued, on July 17, 1918, freight rate authority No. 96, directing the publication of such rates on short notice. Where the rate in effect June 24, 1918, was 18 cents, the increase of 4.5 cents amounted to 25 per cent, to a less per cent where the former rate was more, and to a greater per cent where the former rate was less than 18 cents. In the case of the particular rate under consideration the increase was 180 per cent. This adjustment was made effective all over the United States, both state and interstate, and wherever prior to June 24, 1918, there existed a rate of 2.5 cents on fuel oil, that rate on July 17, 1918, became 7 cents. The circumstances surrounding the modification of General Order No. 28 are set forth in some detail in our Decision No. 10159, *W. P. Fuller & Co.* vs. *Southern Pacific Company,* and by the Interstate Commerce Commission in *Barnett Oil and Gas Company* vs. *Director General,* 61 I. C. C. 568, referred to in the record and briefs in the instant proceeding.

The record before the Interstate Commerce Commission was introduced in evidence in the proceeding before us. The traffic manager of the complainant testified that during the period here involved there were shipped by it from San Francisco to South San Francisco box cars containing vinegar, dried paints, cans, etc., the average weight of which was between 20 and 25 tons and on which shipments a rate of 3 cents per 100 pounds was paid. The average weight of the shipments of oil was about 48 tons. Reference is here made also to certain petroleum rates applicable from Los Angeles to nearby points and other short haul rates. The language of the Interstate Commerce Commission in *Barnett*

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Oil and Gas Company, supra, is particularly applicable here. The Commission there said:

> The 4.5-cent increase was part of a general readjustment made in an effort to minimize serious disturbances of rate relationships. It met with the approval of producers, refiners, and jobbers generally, and, on the whole, seems to be satisfactory to them. No sufficient reason is shown on this record why it should be condemned as applied to the particular rates in issue.

From the facts of record we have reached the conclusion, and so find, that the rate of 7 cents here attacked was not unreasonable.

The question of our jurisdiction to award reparation on intrastate shipments moving during the federal guaranty period is raised on this record, and has been discussed in detail on briefs. Because of its far-reaching importance in connection with a large number of informal complaints now on file with us, we think the time opportune to state our views on this question. The answer of the Southern Pacific Company denies our jurisdiction to award reparation on such shipments, while the position of the complainant is that if jurisdiction does not lie with the federal commission it must be within the jurisdiction of the state commissions.

Section 208 (*a*) of the Transportation Act reads as follows:

> All rates, fares, and charges, and all classifications, regulations, and practices, in anywise changing, affecting, or determining, any part or the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by state or federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the Commission.

The object of that provision is clear when consideration is given to the conditions existing in the transportaton world at the time the act was passed. The leading railroads of the country had been operated by the government since December 1, 1917, under a guarantee that the compensation of each during the period of federal control should be based on its average annual operating income for the three years ended June 30, 1917. It is a well known fact that the total operating income of the carriers under federal control was insufficient to meet the governmental guarantees and that the deficit was paid out of the public treasury. Under the terms of the Transportation Act of 1920 the President was required, on March 1, 1920, to "relinquish possession and control of all railroads and systems of transportation then under federal control and to cease the use and operation thereof." The total railway operating income of the carriers was then so low that it was not deemed advisable by Congress to hand back the roads to their owners without making some financial provision that would insure their

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continued operation under private management. Accordingly Congress provided for a transition period to commence March 1, 1920, and end September 1, 1920, during which time the government would insure to such carriers as, prior to March 15, 1920, accepted the provisions of section 209 of the Transportation Act, earnings on practically the same basis as during federal control. The transition period is here referred to as the federal guaranty period. Having thus assumed a financial responsibility with respect to the railway operating income of carriers accepting the provisions of section 209, it is but natural that Congress, so far as the situation was in its hands, should take the necessary steps to guard the revenues and expenditures of those carriers during the guaranty period. Accordingly, it was provided that the Interstate Commerce Commission should have jurisdiction over the expenditures for maintenance of way, structures and equipment. Provision was also made for an adjustment and restatement of operating revenues and expenses should this appear advisable in the public interest. Certain carriers, it was assumed, would prefer to resume operations March 1st on their individual responsibility without accepting the federal guaranty. Since such carriers would be in direct competition with others who had accepted the guaranty, it became necessary for Congress, in the protection of the revenues of the latter lines, and to prevent possible disastrous rate wars, to require the existing schedule of rates to be maintained not only by the lines accepting the guaranty, but by all "carriers subject to the Interstate Commerce Act."

In furtherance of its policy of rate stabilization during the transition period it became necessary for Congress to continue to retain a measure of control also over the intrastate rates. It was accordingly provided, first, that all rates, interstate and intrastate, which, on February 29, 1920, were in effect on the lines of carriers subject to the Interstate Commerce Act "shall continue in force and effect until thereafter changed by state or federal authorities," and, second, that no such rate should be changed in such manner as to bring about a reduction unless the reduction or change was approved by the Interstate Commerce Commission. In so far as intrastate rates are concerned our authority, temporarily suspended during the period of federal control, was restored, effective March 1, 1920, subject only to the qualifications just mentioned. Between that date and September 1, 1920, no carrier, subject to the act to regulate commerce, could voluntarily reduce a rate, state or interstate, in effect on February 28, 1920, nor could we, during that period, enter an order requiring the reduction of a state rate without first securing the approval of the federal commission.

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There seems little doubt that, under section 208 of the Transportation Act, it was within our jurisdiction during the guaranty period to entertain complaints in which it was alleged that rates charged for the transportation of commodities between points within this state were unreasonable, to hold hearings thereon, and to determine the reasonableness of the rate or rates under attack. A finding by us that the existing rate was unreasonable, and would be unreasonable for the future, required the approval of the Interstate Commerce Commission before any order could be entered requiring a reduction in the rate. That approval having been secured, we could then order established for the future the rate found by us to be reasonable. In view of the specific language contained in section 208, that existing rates shall continue "until" thereafter changed by state or federal authority, we find no warrant for holding that this Commission may enter an award of reparation in connection with intrastate shipments moving during the federal guaranty period. To hold otherwise would render it possible to accomplish by indirection that which the Transportation Act specifically prohibits to be accomplished directly.

We conclude and find that we have no jurisdiction to award reparation on intrastate shipments moving during federal guaranty period, i.e., March 1, 1920, to September 1, 1920. The complaint must be dismissed and an order to that effect will be entered.

ORDER.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Railroad Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is ordered, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this eighteenth day of November, 1922.

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DECISION No. 11248.

IN THE MATTER OF THE COMPLAINT BY THE COMMISSION, ON ITS OWN MOTION, AGAINST THE WEST SIDE NATURAL GAS COMPANY OF TAFT, CALIFORNIA, AS TO THE REASONABLENESS OF ITS RATES OR CHARGES.

Case No. 1828.

Decided November 18, 1922.

METERS—GAS UTILITY—TEST FOR ACCURACY—REPARATION.—West Side Natural Gas Company is directed to test all of its meters to determine their accuracy. The matter of reparation on account of fast registering meters was postponed until complete evidence shall be available.

Joseph Haber, for West Side Natural Gas Company, Respondent.

BY THE COMMISSION.

OPINION.

This proceeding was instituted by the Railroad Commission, on its own motion, against West Side Natural Gas Company for the purpose of effecting a complete determination of the accuracy of all gas meters used by this company in serving its consumers and for the further purpose of providing for the proper adjustment and correction of all meters found to be registering inaccurately. A careful series of tests was made by the Commission's engineers, wherein over one hundred meters were tested. This investigation indicated that the gas meters of respondent used for measuring gas to its consumers were generally inaccurate and were registering in excess of the true amount of gas delivered.

A hearing in this matter was held in Taft before Examiner Satterwhite on November 2, 1922, at which time testimony by respondent and the Commission's engineers was heard and the matter submitted. A report setting forth tests made upon 111 of respondent's meters by Engineers J. O. Wiley and R. M. Bauer, of the Commission, was submitted in evidence as indicating the general inaccuracy and over-registration of these meters. The accuracy of the meter prover used by the Commission in these tests was questioned by respondent, who alleged that a small leak existed in the prover fittings during the time while the last twenty meters were being tested. Testimony by Mr. Wiley set forth that this prover had been carefully calibrated and certified correct by the Railroad Commission but a short time previous to these tests and to the best of his knowledge no such leak existed. In passing, it might be noted that if a leak in the prover has existed, as alleged, then any meters so tested would be found to be more inaccurate and registering even faster than reported, if tested upon a tight prover.

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Mr. Harry L. Masser, assistant engineer for the Commission, testified as to certain measures he believed necessary for respondent to take in connection with this proceeding to comply with General Order No. 58 of the Railroad Commission. He stated that it was his opinion that all of respondent's meters should be removed and tested under the supervision of the Commission, and in a manner satisfactory to it, within the shortest period of time practicably possible and that inaccurate meters should be properly repaired and adjusted before being returned to service. In order to do this work properly, he recommended that respondent purchase a new and satisfactory meter prover and obtain the use of an additional prover; that a new meter testing shop of brick or tile construction should be obtained; that an adequate number of meter repair men and service men be employed to permit the complete testing of all meters at the earliest possible date; and, further, that from 150 to 200 accurate meters be obtained in stock prior to the start of the testing in order to expedite the work.

After consideration of Mr. Masser's recommendations, respondent advised the Commission of its willingness to fully comply with the proposed measures for the testing and repair of its meters and the installation of new equipment and facilities as believed necessary by the Railroad Commission.

At the hearing in this matter complaint was made by Mr. B. Gallaway, a resident of South Taft, alleging his meter to be inaccurate and that even after repeated requests to the company it had failed to test the meter and inform him of its accuracy, and that he believed the present gas rates in South Taft were unreasonable.

It appears advisable, at this time, to direct the West Side Natural Gas Company to carry on the test of all meters, in order to determine the accuracy of the same and to postpone deciding the matter of reparation to a later date, when more complete evidence will be available. The Commission is convinced that justification exists for a complete investigation of the existing rates of the West Side Natural Gas Company and this proceeding will be continued for further consideration of the reasonableness of the rates. A further hearing will be set to consider these matters after sufficient time has elapsed to determine the accuracy of meters and for the Commission's engineers and accountants to make the necessary investigations of the property and operations of the company.

ORDER.

The Railroad Commission, on its own motion, having made complaint as to the reasonableness of the rates or charges for gas measured by the meters of West Side Natural Gas Company, a hearing having been

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held and evidence having been submitted indicating that the meters of West Side Natural Gas Company are generally inaccurate and registering in excess of the true amount of gas delivered to the consumers;

It is hereby orderd, that West Side Natural Gas Company shall

(1) Purchase a new and accurate gas meter prover of a type approved by this Commission and shall, in addition, procure the use of another prover for the purpose of expediting the testing of all its meters;

(2) Proceed without delay to obtain a suitable meter-testing shop of brick or tile construction to be approved by the Railroad Commission;

(3) Within thirty (30) days from the date of this order, proceed with due diligence to make complete and careful tests of all gas meters in service upon its system under the supervision and in the manner prescribed by the Railroad Commission, keeping full record thereof and, further, that all inaccurate or imperfect meters be properly repaired, tested and made accurate before being returned to service;

(4) Employ additional meter repair men, service men and others, together with such additional facilities or equipment as may be necessary in the opinion of the Railroad Commission for this work;

(5) Within thirty (30) days from the date of this order have on hand and in stock at least one hundred fifty (150) gas meters of proven accuracy meeting the requirements of General Order No. 58 of the Railroad Commission.

Dated at San Francisco, California, this eighteenth day of November, 1922.

DECISION No. 11249.

IN THE MATTER OF THE APPLICATION OF A. J. RICHARDSON FOR AUTHORITY TO ADJUST PASSENGER FARES BETWEEN LOS ANGELES, SUNLAND AND INTERMEDIATE POINTS, RESULTING IN INCREASES AND DECREASES.

Application No. 7545.

Decided November 18, 1922.

N. C. Folsom, for Applicant.
John S. Knox, for Tejunga Chamber of Commerce.

BY THE COMMISSION.

OPINION ON REHEARING.

In our Decision No. 10665 of July 6, 1922, permission to increase its passenger fares between Los Angeles, Sunland and intermediate points,

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as prayed for, was denied the applicant, largely on the ground that the matter had not been presented to the Commission in sufficient detail to enable it to reach a conclusion. A petition for rehearing was thereupon filed, which rehearing was had before Examiner Eddy at Los Angeles, and the matter is now before us again for further consideration.

The rates, present and proposed, one-way and round-trip, are shown in the following table:

Los Angeles to	Miles	Present		Proposed	
		One Way	Round Trip	One Way	Round Trip
Glendale	8	$0 25	$0 50	$0 20	$0 35
Crockers Ranch	10	35	70	25	45
Montrose	12	35	70	30	55
La Canada	14	50	85	40	75
La Crescenta	15	50	85	45	85
New York Ave.	17	50	85	55	1 05
Tejunga	20	65	1 00	65	1 15
Sunland	23	65	1 00	70	1 25

It will be observed from the above table that at the present time the one-way fare is the same from Tejunga as from Sunland, although the latter is more distant from Los Angeles than the former. It is proposed to increase from 65 to 70 cents the one-way fare from Los Angeles to Sunland, to increase from $1.00 to $1.15 the round-trip fare between Los Angeles and Tejunga, and from $1.00 to $1.25 the round-trip fare between Los Angeles and Sunland. In the following table is shown the number of one-way and round-trip tickets sold from these several stations during the first five months of 1922:

	One Way	Round Trip
Glendale	148	---
Montrose	971	---
La Canada	680	235
La Crescenta	706	403
Tejunga-Sunland	4055	9444

An examination of the above figures indicates that a large percentage of the patrons of the line will receive an increase in their fares, whereas only a few patrons will receive the benefit of the decreases proposed.

Exhibits submitted at the hearing and subsequent thereto show that the operations of the line for the first nine months of 1922 were conducted at a loss without any allowance for depreciation. If the proposed fares had been in effect during this period the gross revenue would have shown an increase of between $5,000 and $6,000. Accepting as correct the accuracy of all the financial data submitted in support of the applications, the figures show that the applicant is entitled to some relief. An order will be entered permitting the proposed rates to be made effective for an experimental period of 90 days. The applicant will be required to submit to the Commission on or before

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the fifth day of each month a statement showing the number of passengers handled between the stations on its route, also the earnings both under the old and the new fares. Upon the expiration of the 90-day period the Commission will again consider the matter and make such further order at that time as the facts seem to warrant.

ORDER.

It is hereby ordered, that the applicant, A. J. Richardson, be authorized to increase passenger fares via auto stage between Los Angeles, Glendale, Montrose, Tejunga, Sunland and intermediate points, as set forth in Exhibit A attached to and made part of the application.

It is hereby further ordered, that the applicant submit to the Commission before the fifth day of each month a statement, covering 90 days, commencing December 1, 1922, showing the number of passengers handled between stations on his route, the earnings under both the old and the new fares and also the operating expenses. The rates herein authorized may be published effective upon five (5) days notice to the public and in accordance with the rules and regulations of this Commission's General Order No. 51.

Dated at San Francisco, California, this eighteenth day of November, 1922.

DECISION No. 11256.

IN THE MATTER OF THE PETITION OF THE CITY OF STOCKTON, A MUNICIPAL CORPORATION, TO ASCERTAIN THE VALUE AND TO FIX AND DETERMINE JUST COMPENSATION TO BE PAID TO PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR THE ACQUISITION BY SAID CITY OF STOCKTON OF THE SYSTEM OF DISTRIBUTION OF WATER BELONGING TO SAID PACIFIC GAS AND ELECTRIC COMPANY AND ALL THE APPURTENANCES AND APPLIANCES USED IN CONNECTION WITH OR PART OF SAID DISTRIBUTING SYSTEM WITHIN THE SAID CITY OF STOCKTON AND ADJOINING TERRITORY USED IN THE DISTRIBUTION OF WATER TO THE INHABITANTS AND CONSUMERS THEREOF.

Application No. 7231.

Decided November 21, 1922.

VALUATION—JUST COMPENSATION—CONDEMNATION—WATER UTILITY—DEPRECIATION.—The determination of accrued depreciation is one largely of individual estimates or judgment, as was stated by the Supreme Court in *Pacific Gas and Electric Company* vs. *Devlin, et al.*, 63 Cal. Decs. 132.

VALUATION—GOING CONCERN VALUE—TERM DEFINED.—It is held to be well settled that in valuing a public utility for the purpose of eminent domain, consideration must be given to the element of going concern value, and if such value is shown to exist, allowance for it must be made. Going concern value is generally considered to be the difference in value between the dead physical structure and the business in financially successful operation.

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VALUATION—GOING CONCERN VALUE—EARNING POWER—FINANCIAL CONDITION.—Earning power and financial condition of the company are declared to be important factors to be considered in arriving at going concern value.

VALUATION—WATER RIGHTS—EMINENT DOMAIN.—It is accepted that the value of water rights, in so far as it is shown that they have value, must be allowed in eminent domain proceedings.

VALUATION—WATER RIGHTS—UNDERGROUND STRATA—VALUE OF LAND.—Conceding that the company possesses a valid right to take the amount of water claimed from underground strata, the Commission finds that the right is not one which must be given a separate value.

VALUATION—JUST COMPENSATION—INDIVISIBLE GROSS AMOUNT.—Under the Public Utilities Act it is made the duty of the Commission to find just compensation in a single sum for lands, properties and rights. The value of the plant was found in an indivisable gross amount. This sum was determined to be $1,400,000 and severance damage was fixed at $1250 additional.

M. P. Shaughnessy, for City of Stockton.
George S. McNoble and *Stanley M. Arndt*, for Stockton Water Consumers League.
C. P. Cutten and *R. W. Duval*, for Pacific Gas and Electric Company.

BENEDICT, *Commissioner*.

OPINION.

The city of Stockton (hereinafter referred to as the city), on October 6, 1921, filed a petition asking that the Commission, under the provisions of the Public Utilities Act, fix the just compensation to be paid by the city of Stockton to Pacific Gas and Electric Company (hereinafter referred to as the company), for the property owned and used by the company in the city of Stockton for the purpose of production and distribution of water for domestic, industrial and municipal purposes in the city. A preliminary hearing was held in Stockton on December 20, 1921, at which time the company made objection to the form of the petition and the description of the property desired by the city, and it was stipulated that an amended petition would be filed by the city which would overcome the objections to the original petition, and which should be deemed to have been filed as of the date of the filing of the original petition.

In accordance with this stipulation the city, on April 6, 1922, filed an amended petition of the second class under section 47 (*b*) of the Public Utilities Act, declaring that on March 24, 1922, the council of the city of Stockton adopted Resolution No. 5219, which set forth that it was the intention of the city to initiate and to continue such proceedings as have already been initiated and may be required under the law for the purpose of submitting to the voters of the city a proposition to acquire, under eminent domain proceedings or otherwise, all the property of the company used for the production, distribution and sale of water in and in the vicinity of the city.

A description of the property involved, marked Exhibit "A," is attached hereto and made a part hereof.

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Hearings in this proceeding were subsequently held in Stockton and San Francisco, the matter has been submitted and all of the exhibits, reports and briefs filed, and is now ready for decision.

There are at issue in this proceeding the following main elements entering into the question of just compensation:

1. Valuation of physical properties plus overheads.
2. Going concern value.
3. Water rights.
4. Severance damages.

This Commission has heretofore in its decisions outlined certain general principles governing the determination of just compensation to be paid for public utility property, which principles it will be unnecessary to reiterate in this proceeding.

It may be briefly stated, however, that the Public Utilities Act provides for a finding of just compensation in a single sum for the utility's lands, property and rights sought to be acquired. Paragraph 4, (*b*), section 47, provides:

> When the proceeding has been submitted, the Commission shall make and file its written finding fixing, in a single sum, the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof; provided, that if the Commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the Commission as of the day on which the petition was filed with the Commission.

The value of the plant will, therefore, be considered as an indivisible gross amount. All of the elements of property, tangible and intangible, will be considered as parts of a single entity, and individual findings of value, as to each element, will not be made.

Appraisals were filed by engineers representing the city, the company, and the Railroad Commission. A summary of the various appraisals is set forth in the following tabulation:

FOR PACIFIC GAS AND ELECTRIC COMPANY.

Appraisals by J. T. Ryan, E. B. Henley and F. C. Herrmann.

Items	Reproduction Cost	Reproduction Cost Less Depreciation
Lands	$71,700	$71,700
Physical property including overheads, based upon inventory as of October 6, 1921, and upon unit prices of labor and materials averaged over a two-year construction period ending on October 6, 1921, the date of filing of the petition with the Commission	2,257,458	1,848,485
Going concern value	250,000	250,000
Water rights	385,000	385,000
Totals	$2,964,158	$2,555,185

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FOR CITY OF STOCKTON.

Appraisal by Fred. H. Tibbetts.

Items	Reproduction Cost	Reproduction Cost Less Depreciation
Lands	$45,997	$45,997
Physical property including overheads, based upon inventory and unit prices of labor and materials as of July 15, 1920	2,114,827	1,286,739
Going concern value	------	------
Water rights	------	------
Totals	$2,160,824	$1,332,736

Appraisal by W. G. Hunter.

Items	Reproduction Cost	Reproduction Cost Less Depreciation
Lands	$64,530	$64,530
Physical property including overheads, based upon inventory as of April, 1921, and upon unit prices of labor and materials averaged over a three-year period ending November 1, 1921	1,843,342	817,153
Going concern value	63,115	------
Water rights	------	*40,000
Totals	$1,971,077	$841,683

*Deduction for claimed short life of water supply.

Appraisal of Lands by The Appraisal Committee of Stockton Realty Board.

Value of property included in the inventory as of October 6, 1921 ..... $52,000

FOR RAILROAD COMMISSION.

Appraisal by William Stava.

Items	Reproduction Cost	Reproduction Cost Less Depreciation
Lands	$52,000	$52,000
Physical property including overheads, based upon inventory as of October 6, 1921, and upon unit prices of labor and materials averaged over a construction period of two years ending October 6, 1921, the date of the filing of the petition with the Commission	1,937,478	1,395,517
Going concern value	------	------
Water rights	------	------
Totals	$1,989,478	$1,447,517

The appraisals presented by the engineers for the company and for the Commission are as of the date of the filing of the application, and the prices of labor and materials are those prevailing over a reasonable construction period prior to the date of the appraisal.

The inventories used by the engineers in this proceeding are unusually complete and comprehensive, and, apparently, an earnest effort has been made to list every item of property.

At the hearing and in its briefs the company contended that some of the unit costs and overhead percentages used in the appraisal presented by the Commission's engineer were too low and also made the claim

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that a few structures had been entirely omitted. Very careful consideration has been given to these matters and to all factors involved therein, and it would appear that as to some items the estimate of reproduction cost of physical property presented by the Commission's engineers should be increased.

The matter of accrued depreciation of the property was also the subject of long and exhaustive consideration at the hearings and in the briefs filed. It appears that all of the engineers who testified in the proceeding made careful inspection of all portions of the plant which were capable of inspection, but that in some other respects the methods of determining the condition per cent of the various structures varied. This matter is one largely of individual estimate or judgment; as was stated in the following language of the Supreme Court of this State in *Pacific Gas and Electric Co.* vs. *Devlin, et al.*, 63 Cal. Decs. 132:

> It is obvious that this matter of depreciation, particularly in a property which is mostly underground and not open to careful inspection, must be largely a matter of estimate and speculation based upon common observation and experience under similar conditions. It is a matter of approximation at best * * *.

The condition per cent of the physical property as set out in the various appraisals submitted is approximately as follows:

Ryan, for company	82
Stava, for Commission	72
Tibbetts, for city	61
Hunter, for city	44

While both the Tibbetts and Hunter valuations do not include all items of property contained in the appraisals presented by Messrs. Ryan and Stava, and are, for that reason, not strictly comparable as to the condition of the property, a study of the items in the inventories used indicates that many of the items listed by all of these engineers are identical, and that such differences as exist are so slight as not to exclude the Hunter and Tibbetts valuations from consideration in determining the condition of the property.

A study of the estimates as to condition of the physical property, submitted by the various engineers, shows a wide variation and makes the determination of that question extremely difficult. The estimates of Messrs. Tibbetts and Hunter are in some respects too drastic, and, on the other hand, Messrs. Ryan and Stava have been unduly optimistic in their calculations. Careful consideration has been given to all the evidence presented concerning depreciation, and the final finding of just compensation will be such as to reflect fairly and adequately the condition of the property.

It is well settled that in valuing a public utility for the purpose of eminent domain, consideration must be given to the element of going

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concern value, and if such value is shown to exist, allowance for it must be made. Going concern value is generally considered to be the difference in value between the dead physical structure and the business in financially successful operation.

In the case of *Galveston Electric Co.* vs. *City of Galveston* (U. S. Sup. Ct. Adv. Ops. May 15, 1922, p. 382), appears a discussion of going concern, which we think is of material assistance in placing a value upon this very intangible element of property. The court in that case said:

> The most important of these items is $520,000 for "development cost." The item is called by the master also "going concern value, or values of plant in successful operation." He could not have meant by this to cover the cost of establishing the system as a physically going concern, for the cost of converting the inert railway plant into an operating system is covered in the agreed historical value by items aggregating $202,000. These included, besides engineering, supervision, interest, taxes, law expenses, injuries, and damages during construction, the sum of $73,281 for the expenses of organization and business management.

It will be seen that the items referred to in the above quotation are the same which the engineers for the company and the Commission included under the head of "overhead expenses," with the exception of the one item of "organization," which was allowed as a separate item by both engineers. The court then goes on to show that going concern value is something different from and in addition to these items:

> The going concern value for which the master makes allowance is the cost of developing the operating railway system into a *financially successful* concern.

We think this statement implies that to have any going concern value, a company must at least be operating successfully, or, in other words, must be on a paying basis. A statement of similar import appears in *Des Moines Gas Co.* vs. *Des Moines,* 238 U. S. 153; 59 L. ed. 1245. In that case the court said:

> That there is an element of value in an assembled and established plant doing business *and earning money* over one not thus advanced, is self evident.

To the same effect see,

Kennibec Water Dist. vs. *City of Waterville,* 97 Me. 185; 54 Atl. 6.
Turner vs. *Cataract Power Co.,* 3 P. S. C. R. 656 (N. Y.).
Monongahela Navigation Co. vs. *United States,* 148 U. S. 312.
Montgomery Co. vs. *Schuylkill Bridge Co.,* 100 Pa. 54, 58.
San Joaquin L. & P. Corp. vs. *Railroad Commission,* 175 Cal. 80.
Pacific Gas & Electric Co. vs. *Devlin,* 65 Cal. Decs. 140.

From these decisions we think it is settled that the earning power and financial condition of the company are important factors to be considered in arriving at going concern value.

The *Galveston* case also holds in effect that the method, frequently employed, of capitalizing past deficits to ascertain or measure going

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concern value, is unsound. It is said by the court: "Past losses do not tend to prove present values." The court does indicate, however, that *actual expenditures* at the start in overcoming initial difficulties incident to operation and in securing patronage might be considered if there is evidence of such expenditures.

In the present case the Commission has carefully examined the evidence relative to the present and past financial condition of the company. The company claims that since 1901 the income derived from the sales of water has been sufficient to yield a fair return on the investment, except in the years 1919, 1920 and 1921, and that the failure to do so during the past few years has been due to the fact that the rate schedules have not yet been adjusted to meet the higher costs of labor and materials used in the operation of the property. The further claim is made that the community served is prosperous and has shown a continuous and healthy growth for more than thirty years; that there is no antiquated or obsolete equipment, no idle or useless property, no unnecessary buildings or structures, no unprofitable extensions into undeveloped territory, and that the business is a going concern, providing a prosperous community with a necessary service.

The results of operation of the Stockton water system from 1917 to 1921, inclusive, are as follows:

	1917	1918	1919	1920	1921
Cost of system as shown by company's books	$1,040,571	$1,053,772	$1,102,452	$1,141,616	$1,167,385
Consumers	7,791	8,481	8,678	9,098	*9,900
Per cent of increase over 1917	0.0	8.9	11.4	16.8	*27.1
Total revenue	$184,477	$196,088	$202,159	$217,791	$221,547
Per cent of increase over 1917	0.0	6.3	9.6	18.1	20.1
Operating expenses	$99,585	$101,932	$113,123	$132,290	$146,328
Depreciation	29,445	29,802	31,170	32,174	32,869
Total charges	$129,030	$131,734	$144,293	$164,464	$179,197
Net revenues	55,447	64,354	57,866	53,327	42,350
Per cent of return upon book cost	5.33	6.11	5.25	4.68	3.64

The company claims that the cost of the system as shown in the foregoing tabulation is incomplete and does not include all items of cost. If this contention is correct, the rates of return will be correspondingly reduced.

In order to secure a return of eight per cent upon the cost of the system as shown above, the net revenues for 1921 must be increased approximately 120 per cent, and to achieve this result the present rates should theoretically be increased 25 per cent.

*Approximate.

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The company claims a total of $2,555,185 as just compensation for this water system, and upon this amount the net revenues for 1921 would yield a return of 1.65 per cent. A return of eight per cent upon this amount would require a theoretical increase in the present rates of approximately 75 per cent. The actual rate of increase would probably exceed this amount.

From the foregoing it appears that the Stockton system is not now in an especially prosperous condition. In fact, its prosperity depends upon future rate increases, and hence, is, to some extent, a matter of speculation. Nevertheless, the system has, for many years, paid operating expenses, and there has been, for many years, some return in addition. We are satisfied, therefore, that it has some going concern value.

The company claims that the plant has a going concern value of $250,000. This sum is the average of the amounts obtained by the use of six different theoretical methods of figuring going concern value. None of these methods proceed upon a basis of the actual cost of developing the Stockton system into a going and successful concern. In fact, there was no evidence to show that any money had been expended "in overcoming the initial difficulties incident to operation and in securing patronage." In the absence of such evidence, estimates of what it might cost to develop other businesses of similar character, or of what has been allowed by courts or commissions for going concern value in other cases, are not decisive of the value in the present case. (*Galveston Electric Co.* vs. *City of Galveston, supra.*) In our opinion, the method used leads to a figure which is clearly in excess of the true going concern value when considered in relation to the financial condition of the company.

Engineers Stava, Hunter and Tibbetts made no definite allowance in their valuations for going concern, but, as above pointed out, this system has an actual and more than nominal going concern value. Considering the past and present financial condition of the company and the other evidence submitted on this question, a substantial allowance will be made in the final valuation for going concern.

The company, through Mr. F. C. Herrmann, presented evidence purporting to show a value of the so-called water rights of the company used in connection with the supply of water in Stockton. This evidence sets forth the following data in regard to the use of water:

Average daily draft for the past five years, in million gallons	5.15
Maximum daily draft sustained for one month during the past five years, in million gallons	7.53
Maximum draft for one day, in million gallons	12.00

Maximum draft during short periods of peak load, was at the rate of 19 million gallons per day.

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It is claimed that the company has established a right to draw 5.15 million gallons of water per day, and that this right should be given a value of from $310,000 to $385,000 for the purpose of sale of the system to the city of Stockton.

The values of these so-called water rights claimed by the company, amounting to from $60,000 to $75,000 per million gallons of daily draft, are based upon reported sales of water rights in various parts of California. Some of the examples shown are for pumped water, some for gravity supplies and some for a combination of pumped and gravity water. None of the sales mentioned occurred in the vicinity of Stockton, and Mr. Herrmann did not know that any sales of water rights had ever been effected in this immediate locality.

Mr. Herrmann claims that it is by no means certain that the city of Stockton or others could obtain an adequate, reliable and satisfactory supply of water for domestic purposes by sinking wells in Stockton or in the immediate vicinity, and that other sources of supply are somewhat remote. He admitted that, in small quantities, water can be secured in the neighborhood of the city, but Mr. Herrmann regarded it as improbable that a supply of potable water could be secured from wells in sufficient quantities to furnish all inhabitants of the city with water.

The Stockton water supply is derived entirely from wells which have been drilled at three pumping plants located at widely separated points. It appears that many wells other than those of Pacific Gas and Electric Company have been installed in the city of Stockton for the purpose of securing a water supply for industrial and domestic uses. Mr. Herrmann claims that the supply obtained from some of these wells is unfit for domestic use, and states that this is the case with respect to the well supply developed by National Paper Products Company and Western States Gas and Electric Company. We are satisfied from the evidence, however, that water occurs in large quantities beneath the surface throughout this territory. (In some localities near sloughs, the quality of the water may be such that its potability is questionable.) It is also clear that industrial plants can, and do, develop their own supplies, and do not patronize the plant of the Pacific Gas and Electric Company, and that many domestic supplies have been developed.

Testimony shows that Pacific Gas and Electric Company has never considered it worth while to protest the development of any of these private supplies in order to protect its own so-called water right, and it is reasonable to conclude that these so-called rights were not formerly regarded as being of especial value.

It is undoubtedly true that the value of water rights, in so far as it is shown that they have value, must be allowed in eminent domain pro-

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ceedings. *(San Joaquin Light and Power Corp.* vs. *Railroad Commission,* 175 Cal. 78.) Most of the cases cited by the company relative to the value of the private or prescriptive rights to water have to do with streams or surface water, and are cases where the supply of water was limited, or the right to take it was in dispute. In the present case, the alleged water rights pertain to underground water. The rule as to underground water is enunciated in *Hudson* vs. *Dailey,* 156 Cal. 617, 629. It was there held that no *prescriptive* right to percolating water accrues to an owner of land overlying water-bearing strata unless it be shown that the party claiming this right has used or diverted this water in such manner as to interfere in some way with the use of water from the same strata by others, or in such manner as to make the use adverse to such others. It was not shown in the present case that the company has ever used or diverted the water in such manner as to interfere with the use from the same source by others. On the contrary, there is evidence to show that the company's supply of water has never been affected by any of the many wells, large and small, that have been put down in the vicinity. If the water supply were limited to the amount used by the company, then, under the facts shown, it might be held that the company's right was adverse to all other owners in the vicinity and, hence, was a prescriptive right, having a special value apart from the land. We do not mean to imply that the company does not possess a valid right to take the amount of water claimed by it from the underground strata, but we think this right is not one which, under the evidence above referred to, must be given a separate value in addition to the land value. Such value as it possesses will, therefore, be included in the amount fixed as the value of the land.

This conforms to the decision of the Federal Court in *Water Company of Tonopah* vs. *Public Service Commission of Nevada,* 250 Fed. 204, where it was said:

> I do not understand that percolating water passing under or through the soil is anywhere recognized as a water right, having a valuation separate and distinct from the land.

To the same effect, see the discussion of the Commission in the following cases:

City of Coalinga vs. *Pleasant Valley Water Co. and Coalinga Cons. W. Co.,* 6 C. R. C. 33, 36.

In the Matter of the Application of the City of Santa Monica, 7 C. R. C. 444, 450.

In the Matter of the Rates, etc., of Belvedere W. Co., 10 C. R. C. 705, 710.

In the Matter of the Application of Marysville W. Co., 19 C. R. C. 452, 454.

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Many other matters were submitted for the Commission's consideration as affecting the value of the plant and as having bearing upon the final finding and just compensation. Elaborate and detailed discussion of these factors will not be attempted, but full consideration will be given them in the final order.

It was stipulated at the hearing by counsel for the company and the city that the sum of $20,000 should be included by the Commission in the final award as the value of the material and supplies, and that this amount might be adjusted at the time the property is actually transferred to the city, to provide compensation for such items as may be shown to be on hand by exact inventory. Engineer Stava for the Commission, and Ryan for the company, also gave a value of $20,000 for these items in their engineering reports (Com. Ex. 1, p. 18; Co. Ex. 1, p. 2). Based upon this evidence and stipulation, an allowance for materials and supplies of $20,000 will be made and included in the final award of just compensation.

Engineers Ryan, Stava and Hunter estimated the severance damage to be the sum of $1,250. In the company's brief it is stated that this sum is also subject to adjustment, depending on the actual cost of moving certain poles and switch structures. Based upon the above estimates, an allowance of $1,250 will be made for severance damages. As section 47 (*b*) requires that such damages shall be found and stated separately, this amount will not be included in the final award of just compensation for the land, property and rights to be taken, but will be awarded in addition thereto.

After a careful consideration of all of the elements pertinent to a final conclusion herein, and of all the items going to make up the value of the properties sought to be acquired by the city of Stockton in this proceeding, it appears that the just compensation to be paid by the city of Stockton to Pacific Gas and Electric Company for the lands, physical properties and rights, including all intangible values, is the sum of $1,400,000, and that the damage resulting from the severance of the properties will consist of the reasonable actual cost of rearrangement of Pacific Gas and Electric Company's electric transmission line, together with the cost of moving to a new location the switch structure and electrical stock on hand, all of which are located on the property occupied by Pumping Plant No. 1.

FINDINGS.

The city of Stockton, a municipal corporation, having filed with the Railroad Commission a petition entitled as above, and the Railroad Commission having proceeded, under the provisions of section 47 of the Public Utilities Act, to fix and determine the just compensation to

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be paid by the city of Stockton to Pacific Gas and Electric Company for the public utility water system supplying water to consumers in the city of Stockton, public hearings having been held thereon, briefs having been filed, and the Commission having been fully advised in the matter:

It is hereby found as a fact that the just compensation to be paid by the city of Stockton to Pacific Gas and Electric company for that company's public utility water system supplying water to consumers in and in the vicinity of the city of Stockton, and more particularly described in Exhibit "A" attached hereto and made a part of these findings, but not including severance damages, is the sum of one million four hundred thousand dollars ($1,400,000).

It is hereby further found as a fact that the just compensation to be paid by the city of Stockton to Pacific Gas and Electric Company, as severance damages to the property and rights of Pacific Gas and Electric Company, not to be taken by the city of Stockton, and resulting from the acquisition by said city of the property and rights described in Exhibit "A" attached hereto and made a part of these findings, is the sum of twelve hundred and fifty dollars ($1,250).

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of November, 1922.

EXHIBIT "A."

Description of Property To Be Acquired by the City of Stockton From Pacific Gas and Electric Company, As Covered In Application No. 7231.

REAL ESTATE.

All of block 99 south of Mormon Channel, as said block is shown upon the official map of the city of Stockton, approved and adopted by the city council on July 23, 1894.

Lots 9, 11 and 15, block 52 west of Center street, as said lots and block are shown upon the official map of the city of Stockton, approved and adopted by the city council on July 23, 1894.

Lots 1 to 12, inclusive, block 1, and lots 1 and 2, block 5½, all in Jensen's addition, as said lots and blocks are shown upon a map entitled: "Map of H. P. Jensen's addition to Stockton," filed in the office of the county recorder of San Joaquin County, State of California, on April 14, 1890.

Also a tract of land in the city of Stockton described as follows:

Beginning at a point on the east line of East street, which point is the intersection of the east line of East street with the south line of Jensen's addition as shown upon a map entitled: "Map of H. P. Jensen's addition to Stockton," filed in the office of the recorder of San Joaquin County, State of California, on April 14, 1890; thence north 71° 35′ east, along the south line of Jensen's addition, a distance of 973.5 feet to the southeast corner of county survey Numbered 615; thence south 16° 55′ east, a distance of 264 feet; thence south 71° 35′ west, a distance of 885.76 feet; thence north 11° 54′ west, a distance of 189.55 feet; thence south 78° 10′ west, a distance of 120 feet, to a point on the east line of East street; thence north

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11° 54′ west, along the east line of East street, a distance of 64.4 feet, to the point of beginning.

Also a tract of land in the city of Stockton described as follows:

Beginning at a point on the east line of East street, which point is the intersection of the east line of East street with the south line of Lafayette street; thence easterly, along the south line of Lafayette street, a distance of 514.55 feet; thence southerly, parallel to the west line of Della street and distant 171.71 feet when measured at right angles therefrom, a distance of 264.13 feet to the northeast corner of lot 2, block 5½ of Jensen's addition, as the same is shown upon a map entitled: "Map of H. P. Jensen's Addition to Stockton," filed in the office of the recorder of San Joaquin County, State of California, on April 14, 1890; thence westerly in a direct line 290.6 feet to the northwest corner of lot 1, block 5½, Jensen's addition; thence southerly, a distance of 37.7 feet to the southwest corner of lot 1, block 5½ Jensen's addition, which corner is on the north line of Sonora street; thence westerly, along the north line of Sonora street, a distance of 225 feet, to the intersection of the north line of Sonora street with the east line of East street; thence northerly, along the east line of East street, a distance of 303 feet to the point of beginning.

PUMPING STATION NO. 1.

Pump House.

One-story building, steel frame, brick walls, plastered both sides, concrete foundations and floors. Pump pit lined with glazed tile. Tar and gravel roof on concrete slab. Size of building: 64x113½ feet, 26½ feet from floor to top of walls. Size of pit: 41x57 feet by 23 feet deep.

Pump Houses.

Nine galvanized iron pump houses, each 4′ 8″x4′ 8″x10′ 5″.

Two one-story buildings, wood frames, board and batten sides, shingle roofs, dirt floors, each 8x8 feet. 7 feet to eaves.

Property Improvements.

Consisting of ornamental iron fence, wood fence, concrete fountain, concrete electroliers, concrete curbs, macadam driveways, flag pole, lawns, trees, shrubs, etc.

Warehouses.

One-story building, wood frame, corrugated iron sides, tar and gravel roof, concrete foundations and floor. Size of building: 38′ 8″x77′ 10″ by 21′ 6″ high.

Garage.

One-story building, wood frame, corrugated iron sides and roof, concrete floor. Size of building: 50′ 4″x98′ 0″ by 9′ 4″ to eaves.

Blacksmith Shop.

One-story building, wood frame, corrugated iron sides and roof, concrete floor. Size of building: 22′ 8″x25′ 0″ by 9″ 6′ high to eaves.

Stone Shed.

One-story building, wood frame, board and batten sides, shingle roof. Size of building: 5′ 0″x5′ 0″x7′ 0″ high to eaves.

Paint Shed.

One-story building, wood frame, corrugated iron sides and roof. Size of building: 8′x10′ by an average of 7 feet high.

Tool House.

One-story building, wood frame, corrugated iron sides and roof. Size of building: 18′x35′ by 7 feet to eaves.

Store House.

One-story building, wood frame, board and batten sides, shingle roof, wood floor. Size of building: 16′x40′ by 10 feet to eaves.

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Wagon Shed.

One-story building, "lean-to" type, wood frame, wood sides, shake roof, dirt floor. Size of building: 14'x24' by an average of 9' 9" high.

Barn.

One-story building, "lean-to" type, wood frame, board sides, shake roof. Size of building: 16'x31' by an average of 10' high.

Reservoir.

Circular concrete structure, wood frame roof covered with felt, tar and gravel. Size: 125 feet diameter by 20½ feet deep.

Tank.

Steel tank and tower. Capacity 200,000 gallons. Total height 110 feet.

Tunnels.

One thousand one hundred thirty-three and one-half linear feet of tunnels, lined with brick, brick and timber, and with timber, including manholes and valve chambers.

Wells.

Well No. 1. 800 feet of 8-inch diameter and 300 feet of 7-inch diameter. No. 16 gauge well casing. Total depth 1100 feet. Brick well pit.

Well No. 2. 600 feet of 6-inch diameter and 310 feet of 5-inch diameter. No. 16 gauge well casing. Total depth 960 feet. Brick well pit.

Well No. 4. 560 feet deep. 10-inch diameter. No. 14 gauge casing.

Well No. 5. 218 feet deep. 8-inch diameter. No. 16 gauge casing.

Well No. 7. 300 feet deep. 8-inch diameter. No. 16 gauge casing.

Well No. 8. 577 feet deep. 8-inch diameter. No. 16 gauge casing.

Well No. 9. 150 feet of 16-inch diameter and 628 feet of 12-inch diameter. No. 14 gauge casing. Total depth 778 feet. Brick and reinforced concrete well pit.

Well No. 10. 230 feet deep. 20-inch diameter. No. 14 gauge casing.

Well No. 11. 150 feet of 16-inch diameter and 800 feet of 12-inch diameter. No. 14 gauge casing. Total depth 950 feet. Brick and reinforced concrete well pit.

Well No. 12. 150 feet of 16-inch diameter, 118 feet of 14-inch diameter, and 734 feet of 12-inch diameter. No. 14 gauge casing. Total depth 1002 feet. Brick and reinforced concrete well pit.

Well No. 13. 150 feet of 16-inch diameter, 100 feet of 14-inch diameter, and 800 feet of 12-inch diameter. No. 14 gauge casing. Total depth 1050 feet. Brick and reinforced concrete well pit.

Well No. 14. 223 feet deep. 20-inch diameter. No. 14 gauge casing. Brick well pit.

Well No. 15. 150 feet of 16-inch diameter, 93 feet of 14-inch diameter, 610 feet of 12-inch diameter, and 200 feet of 10-inch diameter. Total depth 1053 feet. Brick and reinforced concrete well pit.

Well No. 16. 257 feet of 16-inch diameter, 589½ feet of 14-inch diameter, and 205½ feet of 12-inch diameter. No. 14 gauge casing. Total depth 1052 feet. Brick and reinforced concrete well pit.

Well No. 17. 201 feet deep. 20-inch diameter. No. 14 gauge casing.

Well No. 18. 861 feet of 14-inch diameter, and 91 feet of 12-inch diameter. No. 14 gauge casing. Total depth 952 feet. Brick and reinforced concrete well pit.

Well No. 19. 280 feet of 16-inch diameter, 238 feet of 14-inch diameter, and 156 feet of 12-inch diameter. No. 14 gauge casing. Total depth 674 feet. Brick and reinforced concrete well pit.

Well No. 20. 279 feet of 20-inch diameter, 754 feet of 14-inch diameter, and 151 feet of 12-inch diameter. No. 14 gauge casing. Total depth 484 feet. Brick and reinforced concrete well pit.

Well No. 22. 368 feet deep. 16-inch diameter. No. 14 gauge casing.

Well No. 23. 230 feet deep. 8-inch diameter. No. 14 gauge casing.

PUMPING EQUIPMENT.

Boilers.

Two 80 H. P. horizontal, tubular boilers, with foundations and setting.

Four 80 H. P. horizontal, tubular boilers, dry steam drums, with foundations and settings.

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Steel stack and breeching, stack 5 feet diameter by 70 feet high, with steel support and concrete foundation.

Feed Water Pumps.

Worthington duplex pump, 5¼"x3½"x5", concrete foundation.
Snow duplex pump, 4½"x3¾"x4", concrete foundation.

Feed Water Heater.

National. Type A, 24"x50".

Hotwell Tank.

Tank 4' 0"x6' 0"x5' 0". Steel plate.

Condenser.

United Iron Works, 5' 4½" diameter by 9' 10".

Fuel Oil Pumping System.

Two Fairbanks-Morse pumps, 3"x2"x4".
Cast iron oil heater, 10" diameter by 3' 0".
Two Dow pumps, 4½"x2¾"x4".
Oil heater, wrought iron plate, 12" diameter by 3' 0".
Two sets of drip pans, regulators, air chambers and pressure gauges.

Steam Piping.

Consisting of various lines of pipe ranging in size from ½-inch to 24 inches diameter, with valves, fittings, steam traps, separators, etc.

Oil Tanks.

Two steel shell oil tanks, 8 feet diameter by 18 feet long.

Oil Piping.

Consisting of various lines of pipe ranging in size from ⅜-inch to 3 inches diameter, with valves, fittings, etc.

Pumps.

Snow cross-compound, duplex, double action steam pump, 18"x36", 51 R.P.M., capacity, 6 million gallons per day, on concrete foundation.

Two pumping units each consisting of Allis-Chalmers, 10-inch, double suction, single stage centrifugal pump, 6 million gallons daily capacity, direct connected to Kerr steam turbine of 250 H.P., 1760 R.P.M., Form 247M, also Allis-Chalmers induction motor, 250 H.P., 1750 R.P.M., 440 V., all on cast iron base and concrete foundation.

Byron-Jackson, 8-inch, two stage, centrifugal pump direct connected to Stanley induction motor, 75 H.P., 440 V., 720 R. P. M., on concrete foundation.

Byron-Jackson, single stage, centrifugal pump with 12-inch double suction and 10-inch discharge, direct connected to General Electric induction motor, 150 H.P., 440 V., 1200 R.P.M., Type IQ, on concrete foundation.

Suction Manifold.

Steel and cast iron manifold, 36½ inches diameter by 19½ feet long.

Air Pumping Equipment.

Edwards air pump, 10"x10"x18", two cylinder steam drive, on cast iron base and concrete foundation.

Blake triplex air pump, 11"x12", single acting, 100 R.P.M., gear driven by Ohmen vertical steam engine, 6"x10", 400 R.P.M., on cast iron base and concrete foundation.

Air piping consisting of various lines of pipe ranging from 2-inch to 6-inch diameter, with valves, fittings, etc.

Deep Well Pumps and Motors.

Nine pumping units each consisting of Layne-Bowler, medium lift, 8 stage, turbine pump with surface and underground discharge, direct connected to Westinghouse vertical induction motor, 50 H.P., 1160 R.P.M., 440 V., with Trumball externally operated switch at pump house.

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United Iron Works medium lift, two stage, 5-inch deep well turbine, surface discharge, direct connected to Westinghouse vertical induction motor, 15 H.P. 1160 R.P.M., 440 V.

Electric induction motor, 10 H.P., 1160 R.P.M., 440 V.

Water Piping.

Various lines of standard screw pipe, casing pipe, cast iron bell and spigot pipe and cast iron flanged pipe, ranging in size from 1-inch to 24-inch diameter, with valves, fittings, etc., located in pump house and between pump house and wells, distribution mains, tank and reservoir.

Meters.

Three General Electric flow meters, Type FW-4, including nozzles.

Miscellaneous Station Equipment.

Steam regulator, G. E. Witt, ½-inch.
Steam gauge, G. E. Witt, 160 lbs.
Steam gauge, Ashcroft, 300 lbs.
Empire oil meter, 1".
Two oil screens.

Electrical Equipment.

Consisting of 5 transformers, switchboards, cell structure and equipment, power wiring, ducts, outside switching equipment, etc.

Tools and Appliances.

Tools and equipment at pumping station, blacksmith shop, machine shop, stable and garage, as per inventories.

Furniture and Fixtures.

Office equipment at pumping station, fire apparatus, etc., as per inventory.

PUMPING STATION NO. 2.

Pump House.

One-story concrete building, 23' 8"x28' 8"x11' 0" to eaves, hip roof, plastered walls, steel roof trusses, tile roof, concrete foundations and floor. Pump pit 16' 6"x21' 4"x10' 6" deep.

Pump Houses.

Two galvanized iron pump houses, 4' 8"x4' 8"x10' 5".

Property Improvements.

Concrete walks, lawn, trees, shrubs, vines, etc.

Wells.

Well No. 1. 632 feet of 12-inch diameter, and 35 feet of 10-inch diameter. No. 14 gauge casing. Total depth 667 feet. Brick and concrete well pit.

Well No. 2. 594 feet of 12-inch diameter, 208 feet of 10-inch diameter. No. 14 gauge casing. Total depth 802 feet. Brick and concrete well pit.

Well No. 3. 150 feet of 16-inch diameter, 110 feet of 14-inch diameter, 715 feet of 12-inch diameter. No. 14 gauge casing. Total depth 975 feet. Brick and concrete well pit.

Well No. 4. 250 feet of 14-inch diameter, 550 feet of 12-inch diameter, and 75 feet of 10-inch diameter. No. 14 gauge casing. Total depth 875 feet. Brick and concrete well pit.

Well No. 6. 650 feet of 16-inch diameter and 262 feet of 14-inch diameter. No. 14 gauge casing. Total depth 912 feet.

PUMPING EQUIPMENT.

Pumps.

Two pumping units each consisting of Byron-Jackson No. 5, six stage, deep well turbine pump, with underground discharge, direct connected to 75 H.P. vertical induction motor, 440 V., 1200 R.P.M., Type K.T.

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Sand Trap.

Two sand traps each consisting of riveted steel cylinder, 3 feet by 36 feet with brass wire cloth screens.

Venturi Meter.

Meter tube No. 1852, 14-inch diameter, 7-inch throat, with registering device.

Pits.

One pit 24"x24"x40", brick lined.
One pit 26"x26"x48", brick lined.

Water Piping.

Consisting of various lines of standard screw pipe and cast iron pipe, ranging in size from 1½-inch to 14-inch in diameter, with valves, fittings, etc.

Electrical Equipment.

Consisting of transformers, switchboards, power wiring, ducts, etc.

Tools and Appliances.

Tools and equipment at pumping station, as per inventory.

Furniture and Fixtures.

Furniture, fire apparatus, etc., at pumping station as per inventory.

PUMPING STATION No. 3.

Pump House No. 1.

One-story frame shed, corrugated iron roof and sides, 8' 0"x28' 0"x7' 9" average height.

Pump House No. 2.

One-story frame shed, 8' 3"x34' 0"x8' 0" average height.

Pump House No. 3.

One-story frame building, shingle roof, concrete floor, 7' 3"x7' 9"x7' 6" to eaves.

Switch House.

One-story frame building, shingle roof, 7' 3"x7' 9"x7' 6" to eaves.

Meter House.

One-story frame shed, shingle roof, 4' 0"x6' 0"x5' 8" average height.

Fence.

Wood and barbed wire fence around property.

Wells.

Well No. 1. 260 feet of 14-inch diameter, and 714 feet of 12-inch diameter. No. 12 and No. 14 gauge casing. Total depth 974 feet.

Well No. 2. 209½ feet of 20-inch diameter, and 629½ feet of 16-inch diameter. No. 14 gauge casing. Total depth 839 feet.

Well No. 3. 818 feet deep. 16-inch diameter. No. 14 gauge casing.

PUMPING EQUIPMENT.

Pumps.

Layne-Bowler medium lift, 5 stage, turbine deep well pump with surface discharge, direct connected to 30 H.P. Westinghouse vertical induction motor, 440 V., 1160 R.P.M., Type C.S.

Western deep well, 3 stage turbine pump, with surface discharge, direct connected to 75 H.P. General Electric vertical induction motor, 440 V., 1200 R.P.M., Type KT.

Byron-Jackson deep well, 8 stage, type DW, pump with surface discharge, direct connected to 50 H.P. Fairbanks-Morse, vertical, induction motor, 440 V., 1200 R.P.M., Type UN.

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Sand Trap.

Consisting of riveted steel cylinder, 30-inch diameter by 23 feet long, with brass wire cloth screens.

Meter.

General Electric flow meter, type FW-4, with 12-inch nozzle.

Miscellaneous Plant Equipment.

10-inch diameter pressure gauge.
8-inch diameter pressure gauge.

Drain Sump.

Wood lined sump, 8x8x10 feet.

Electrical Equipment.

Consists of switchboards and miscellaneous wiring.

Water Piping.

Consists of various lines of standard screw pipe and casing pipe, ranging in size from ½-inch to 12-inch diameter, with valves, fittings, etc.

Furniture and Fixtures.

Fire apparatus, etc., as per inventory.

DISTRIBUTION SYSTEM.

Distribution Mains.

Consisting of the following sizes, kinds, and lengths of distribution pipe laid in the streets and alleys of Stockton and vicinity:

Sizes	Lengths in Feet			
	Standard Screw Pipe		Cast Iron Pipe	
	Buried	Exposed	Buried	Exposed
¾-inch	530	---	------	---
1 -inch	1,065	---	------	---
1¼-inch	430	---	------	---
1½-inch	1,067	---	------	---
2 -inch	294,206	150	------	---
3 -inch	1,360	---	14,839	---
4 -inch	------	---	102,609	---
6 -inch	------	---	81,130	169
8 -inch	------	---	29,889	---
10 -inch	------	---	8,404	---
12 -inch	------	---	17,767	---
14 -inch	------	---	7,655	200
16 -inch	------	---	35	---
20 -inch	------	---	120	---

Also a one-half interest in the following pipes in the Moreing Tract:

2 -inch	2,767	---	------	---
4 -inch	------	---	1,725	---

Of the foregoing pipe 82,860 linear feet of 2-inch and 920 linear feet of 3-inch screw pipe are protected with P. and B. covering.

The following lengths of standard screw pipe are dipped:

¾-inch	530 feet
1 -inch	1,065 feet
1¼-inch	430 feet
1½-inch	1,067 feet
2 -inch	100,000 feet

Special Structures, Distribution Mains.

Concrete culvert, 2½x2½x200 feet, carrying pipes under tracks of Southern Pacific and Western Pacific Railroads.

Timber and steel straps carrying pipe on city bridge, Pilgrim street.

Timber trestle carrying pipe on Sierra Nevada street.

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Steel casing 14-inch diameter, 40 feet long, carrying pipes under Western Pacific Railroad tracks.

Gate Valves.

The following number, size and kind of gate valves and cocks installed at various points on the distribution pipes:

	Number Gate Valves		
	Brass	Iron Body	Brass Cocks
1 -inch	---	---	1
1½-inch	---	---	10
2 -inch	727	---	96
3 -inch	---	21	--
4 -inch	---	214	--
6 -inch	---	150	--
8 -inch	---	49	--
10 -inch	---	11	--
12 -inch	---	33	--
14 -inch	---	13	--
20 -inch	---	1	--

Valve Pits.

Seven brick valve pits, 4" walls, 30"x30"x36", with cast iron frame and double cover 24"x24".

One hundred ninety-six brick valve pits, 4" walls, 24"x24"x36", with extra heavy cast iron cover 18"x18".

One brick valve pit, 8" walls, 42"x72"x42", with 28" cast iron frame and cover.

Hand Holes.

Consisting of short piece of pipe with cast iron cover, for operating valves.

4-inch pipe and cover	3
6-inch pipe and cover	910
8-inch pipe and cover	206

Flush Gates.

2-inch wrought iron	18
4-inch cast iron	2
6-inch cast iron	8
8-inch cast iron	10
10-inch cast iron	2
14-inch cast iron	1

Flush pits.

Two brick flush pits, 8-inch walls, 3 feet diameter, 6 feet deep, with 28-inch cast iron frame and cover.

Pitometer Pits.

Seven brick pitometer pits, 4-inch walls, 20"x20"x20", with 18" cast iron extra heavy cover.

Services.

The following tabulation indicates the number, size, and kind of services on the system:

	Number		
Size	Wrought Iron Extra Heavy	Wrought Iron Standard	Cast Iron
¾-inch	9391	--	-
1 -inch	297	--	-
1¼-inch	20	--	-
1½-inch	79	--	-
2 -inch	----	88	-
3 -inch	----	7	-
4 -inch	----	--	4
6 -inch	----	--	4

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Sewer Flusher—Services.

Five hundred twenty-nine ¾-inch, extra heavy, wrought iron sewer flusher services.

Pipe Protection.

Of the foregoing services and sewer flushes the following numbers are protected with P. and B. covering:

¾-inch services	1016
1 -inch services	230
1¼-inch services	20
1½-inch services	79
2 -inch services	88
3 -inch services	7

Service Boxes.

Seven thousand eight hundred sixty-two service boxes, consisting of short pieces of 4-inch pipe with cast iron covers, for operating cocks on services, sewer flusher services, and services to fountains and troughs.

Fire Hydrant Connections.

Consisting of tees on distribution mains:

4-inch	173
6-inch	196
8-inch	94
10-inch	1

Services to Fountains and Troughs.

Seven ¾-inch extra heavy wrought iron services.

Meters.

The following number, size and kind of meters are in place on services or in stock in the warehouse:

National Meter Company's Meters.

Size	Nash Meters Type 9	Nash Meters Type K	Empire	Empire Compound	Empire Hot Water
⅝-inch	89	26	577	-	21
¾-inch	--	--	150	-	10
1 -inch	--	--	95	-	5
1¼-inch	--	--	19	-	1
2 -inch	--	--	---	3	--

Neptune Meter Company's Meters.

Size	Disc	Trident Meters Compound	Protectus
⅝-inch	2971	--	-
¾-inch	67	--	-
1 -inch	78	--	-
1¼-inch	1	--	-
1½-inch	3	10	-
2 -inch	--	15	-
3 -inch	--	--	2
6 -inch	--	--	1

Worthington Meters.

19 Worthington ⅝-inch meters.

King Meters.

32 King ⅝-inch meters.
19 King ¾-inch meters.

Watchdog Meters.

14 Watchdog ⅝-inch meters.
6 Watchdog ¾-inch meters.
2 Watchdog 1-inch meters.

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Crown Meters.

1 ¾-inch Crown meter.

Lambert Meters.

1 2-inch Lambert meter.

Hersey Meters.

1 ⅝-inch Hersey meter.

Meter Boxes.

3063 concrete boxes, 12″x18″x12″, set on 8 bricks, with 12″x18″ cast iron cover.
22 concrete boxes, 12″x18″x12″, set on 8 bricks, with 12″x18″ extra heavy cast iron cover.
144 concrete boxes, 12″x18″x12″, no covers.
242 concrete boxes, 14″x22″x12″, set on 12 bricks, with 14″x22″ cast iron cover.
18 concrete boxes, 18″x18″x16″, with 18″x18″ cast iron frame and cover.
5 concrete boxes, 18″x18″x16″, no cover.
4 concrete boxes, 9″x16″x12″, with 9″x16″ concrete cover.
7 concrete boxes, 24″x24″x18″, with 18″x18″ extra heavy cast iron cover.
4 concrete boxes, 24″x24″x20″, with 18″x18″ cast iron frame and cover.
55 concrete boxes, 24″x24″x24″, with 18″x18″ cast iron frame and cover.
2 concrete boxes, 26″x26″x24″, with 24″x24″ cast iron frame and cover.
50 brick boxes, top 24″x24″, bottom 36″x36″, 30″ deep, with 24″x24″ cast iron frame and cover.
9 brick boxes, top 14″x22″, bottom, 24″x30″, 24″ deep, with 14″x22″ cast iron cover.
3 brick boxes, 24″x24″x30″, no cover.
2 brick boxes, 14″x22″x24″, no cover.
16 brick boxes, 24″x24″x24″, with 18″x18″ cast iron frame and cover.
7 brick boxes, 32″x30″x30″, with 24″x24″ cast iron cover.
26 brick boxes, 36″x24″x24″, with 36″x24″ cast iron frame and cover.
10 brick boxes, 36″x24″x24″, with 24″x24″ extra heavy cast iron cover.
1 brick box, 48″x84″x54″, with 3″ wood cover and 28″x28″ cast iron cover.
25 wood boxes, 14″x22″x18″, wood cover.
6 wood boxes, 18″x18″x24″, with 18″x18″ extra heavy cast iron cover.
77 wood boxes, 18″x18″x20″, with 18″x18″ cast iron frame and cover.
10 wood boxes, 24″x24″x24″, with 24″x24″ cast iron frame and cover.
19 wood boxes, 28″x28″x20″, with 24″x24″ cast iron cover.
10 wood boxes, 24″x24″20″, with 18″x18″ extra heavy cast iron cover.

Cast Iron Covers.

12″x18″ standard	124
12″x18″ extra heavy	2
14″x22″ standard	4

Cast Iron Frames and Covers.

9″x13″	11
24″x24″	2
18″x18″	11

Sand Traps.

One ¾-inch Mueller sand trap.

Tools, Equipment, Etc.

Tools, wagons, horses, automobiles, etc., as per inventory.

Office Furniture, Fixtures and Equipment.

Office furniture, fixtures, equipment, maps, plans, etc., at head office, No. 130 Sutter street in city of Stockton, as per inventory.

Material and Supplies.

Pipe, fittings, water meters, valves, lumber, well casing, fuel oil, etc., as per inventory.

The intent of the foregoing inventory is to set forth a full and complete description of the property, lands, rights, etc., owned by Pacific Gas and Electric Company and used for the purpose of supplying water to consumers in the city of Stockton and vicinity.

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DECISION No. 11257

IN THE MATTER OF THE APPLICATION OF G. & W. STAGE COMPANY TO SELL, AND OF THE MOTOR TRANSIT COMPANY TO PURCHASE AND EXERCISE CERTAIN AUTOMOBILE STAGE LINE OPERATING RIGHTS.

Application No. 6754.

Decided November 23, 1922.

H. W. Kidd, for Applicant.
Frank Karr, for Pacific Electric Railway Company, Protestant.
J. W. Barbee, for Riverside and San Jacinto Stage Line.
E. T. Lucey, for Atchison, Topeka and Santa Fe Railway Co.
R. L. McNitt, for Pasadena and Pomona Stage Line, Protestant.
T. F. Fitzgerald and *F. E. Watson*, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

Applicants, G. & W. Stage Company, a corporation, and Motor Transit Company, a corporation, have petitioned the Railroad Commission for an order approving the sale and transfer of certain auto stage operative rights between Los Angeles and Gilman's Relief Hot Springs, now possessed by applicant, G. & W. Stage Company, to applicant, Motor Transit Company, for a cash consideration of $10,000.

Public hearings on this application were conducted by Examiner Satterwhite at Los Angeles. The matter was duly submitted and is now ready for decision.

The operative rights proposed to be transferred are as follows:

First: The operative rights originally acquired by Golden State Auto Tours Corporation, a corporation, by reason of operation by said corporation between Los Angeles and Gilman's Relief Hot Springs in good faith on May 1, 1917, being the same operating rights heretofore authorized by this Commission (Decision No. 7086 dated February 5, 1920, on Application No. 5285) to be transferred by said Golden State Auto Tours Corporation to said G. & W. Stage Company.

Second: The operative rights of said G. & W. Stage Company of an automobile stage line between San Jacinto and Soboba Hot Springs for the transportation of persons and express as heretofore authorized by this Commission in its Decision No. 7691 dated June 8, 1920, on Application No. 5746.

The record shows that the total issued and outstanding corporate stock of the said G. & W. Stage Company consists of four shares only, being the four shares originally issued to the four incorporators of said corporation, and that one share each is now owned and held by O. R. Fuller, H. W. Kidd, Rex Hardy and Carrol Roberts. The G.

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& W. Stage Company has offered to sell to said Motor Transit Company all of said G. & W. Stage Company's operating rights as described in said application for the sum of $10,000, and the said Motor Transit Company has accepted the said offer and agreed to purchase the said automobile stage lines subject to the approval of this Commission. This proposed purchase price of $10,000 is the amount which said O. R. Fuller paid for the said four shares of the corporate stock of the said G. & W. Stage Company, and it appears that Mr. Fuller will not, nor will anyone else, realize any profit in connection with this proposed sale nor will any commissions or brokerage be paid thereon.

The evidence shows that the Motor Transit Company is financially able to operate the said service and to serve adequately the traveling public and that it expects to use in the said operation rolling stock and equipment of the same general type as used in its other operations.

The granting of this application was protested by the Pacific Electric Railway Company and J. H. Lord, doing business under the name and style of the Pasadena-Pomona Stage Line, each of whom filed written protest.

The Pasadena-Pomona Stage Line is operating an authorized stage line over the Foothill Boulevard between Pasadena and Pomona.

The Pacific Electric Railway Company, among other operations, maintains and operates a line of railroad between Los Angeles and Uplands and other points.

Both of these protestants allege that they are operating an adequate service and do a substantial local business between many intermediate places, towns and cities in the territory between Los Angeles and Uplands, and that the applicant G. & W. Stage Company now diverges from its lawful route and also does a local business to and between intermediate points in excess of and in violation of any lawful rights heretofore exercised by said Golden State Auto Tours Corporation on May 1, 1917, and subsequent thereto, to the detriment of the service and business of said protestants. Protestants request that in any order authorizing the proposed sale and purchase that the Commission inquire into and finally determine and establish the precise character, scope and extent of the operating rights belonging to the G. & W. Stage Company which it is sought herein to have transferred.

This Commission being of the opinion that it is right and proper, expedient, and in the interest of sound regulation, has received evidence, both oral and documentary, for the purpose of ascertaining and thereafter exactly defining what operative rights the Golden State Auto Tours Corporation held by reason of operations in good faith on May 1, 1917, and thereafter maintained until the said sale thereof to applicant, G. & W. Stage Company.

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The decision in this matter has been withheld pending the decision which has now become final in Case 1442 entitled *A. G. Watson* vs. *White Bus Company, a corporation, et al.,* filed with this Commission May 7, 1920. The Supreme Court in a review of this case said in part as follows:

> * * * It is the contention of petitioners that the operation of through service prior to May 1, 1917, necessarily gave them a vested right to maintain the local service in question and this right having been conferred by the Legislature, the Commission was not only without power to deprive them thereof but exceeded its jurisdiction in determining and directing that only such service as was in actual operation prior to said date could be continued without a certificate of public convenience and necessity. This contention cannot be maintained. * * * To hold that by the operation of a through line on that date, petitioners were given a franchise to operate to any extent that they, in their judgment might see fit, limited solely by the restriction that the operations must be between the same termini and over the same route, would be to materially decrease the power of the Commission over these lines and thus overlook the primary purpose of the enactment which was to give to the Commission in the interest of the public the fullest power possible to regulate the operation of auto stage companies.

The record shows that there is little or no conflict as to the original route followed by the Golden State Auto Tours Corporation between Los Angeles and Gilman's Relief Hot Springs; and from all the evidence in this proceeding the Commission hereby finds that the Golden State Auto Tours Corporation was actually operating in good faith on May 1, 1917, over the following route between Los Angeles and Gilman's Relief Hot Springs: Leaving Los Angeles at Fifth and Main Streets, thence north on Main Street to the Plaza, thence past the County Hospital to the public highway known as Huntington Drive, thence passing through Oneonta Park, Arcadia, and Monrovia over and along Huntington Boulevard to the Foothill Boulevard near Azusa, thence passing through Glendora, Claremont and Uplands over and along the Foothill Boulevard to the Ontario-San Bernardino Boulevard, thence through Cucamonga, Etiwanda and Rialto to San Bernardino over and along the Ontario-San Bernardino Boulevard and thence over Colton Avenue to Colton, thence over Colton Avenue to Iowa Avenue, thence along Iowa Avenue, thence over Box Spring Grade to Allesandro, thence over the public highway through Perris, Hemet and San Jacinto to Gilman's Relief Hot Springs in Riverside County.

The evidence shows that the Golden State Auto Tours Corporation made periodic or irregular departures from their regular route above described by passing over and along Tenth Street in Claremont and Uplands, but we find as a fact that these departures were such as the law allows.

The question of the character and extent of the rights of the Golden State Auto Tours Corporation to engage in intermediate service

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between its terminals of Los Angeles and Gilman's Relief Hot Springs must be determined by what business the company was actually doing on May 1, 1917, and what service it had undertaken in good faith to render and was holding itself out to render to the public and had thereafter maintained in good faith up to the time of the said transfer of its operative rights to the said G. & W. Stage Company.

The records in evidence in this proceeding show that three tariffs, together with certain unimportant supplements thereto, were filed with this Commission by the Golden State Auto Tours Corporation covering its service over the route above described, viz: C. R. C. No. 1 effective March 7, 1917; C. R. C. No. 2 effective March 21, 1917, and C. R. C. No. 3 effective April 1, 1918.

A study of these tariffs together with time schedule No. 3 effective April 26, 1917, indicates that on May 1, 1917, a local service was operated between Los Angeles and San Bernardino to the towns of Glendora, Claremont and Uplands, Cucamonga, Etiwanda and Rialto. However, on April 1, 1918, by the filing of said tariff C. R. C. No. 3, all intermediate service between Los Angeles and San Bernardino was cancelled and abandoned except to the town of Uplands. The purpose and intent of the Golden State Auto Tours Corporation when it filed its tariff of fares C. R. C. No. 3 to abandon any local service it may have been handling between Los Angeles and San Bernardino, is clearly shown and established by the testimony of Cynthelia I. Kneffler, a witness called by the protestants. Mrs. Kneffler had been associated with the office management of the Golden State Auto Tours Corporation from April, 1917, to September, 1917, when she became its General Manager and Vice President, and acted in that capacity until the sale of the company's operative rights to the G. & W. Stage Company. The testimony of this witness shows without contradiction that from the beginning of its operations the Golden State Auto Tours Corporation operated a through sight-seeing service from Los Angeles to San Jacinto and catered primarily to and solicited only through business; that its constant policy and practice was the operation of a through service to San Bernardino and San Jacinto and points intermediate between San Bernardino and San Jacinto; that passenger touring cars with a seating capacity of 7 or 8 were the type used and generally were filled on leaving Los Angeles with through passengers. The testimony shows that local business to and from points intermediate between Los Angeles and San Bernardino was practically ignored, and was not at any time solicited and not carried at all unless there happened to be a vacant seat.

Glendora was the only regular stopping place out of Los Angeles with a depot to which tickets were occasionally sold, but none could

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be purchased there. Local passengers were carried occasionally if seats were available from Los Angeles to points west of Glendora for the Glendora rate of $1.00. It further appears that without the consent or knowledge of the company the drivers from time to time, if vacant seats existed, carried passengers for short hauls between points intermediate to Los Angeles and San Bernardino.

The following excerpts from the testimony of Mrs. Kneffler show quite clearly the character and scope of this company's operations. She testified in part as follows:

> It was our policy to send out full loads because the cars went through to San Jacinto.
>
> We did not take the short hauls and did not hold ourselves out to do it because we could not do it part of the time, and so we did not solicit to do it any of the time.
>
> The idea of the Golden State was to operate over the shortest possible mileage between here (Los Angeles) and San Bernardino, because they were interested in San Bernardino and not the intermediate points.
>
> We then filed a schedule for Glendora when we found it was an uneconomical thing to do, an unsatisfactory thing to do, to have them change in San Bernardino, and proposed to run these cars from San Bernardino into Los Angeles so we could be in closer touch with all the cars every day. We then cancelled the tariffs to Glendora. We carried the passengers to Glendora if there was room, but we did not want to be compelled to, for the business was greatly increasing in carrying directly from here (Los Angeles) to Gilman's Relief Hot Springs, which was really our only money-making point.

The record moreover shows that newspaper advertisements, placed only in papers on the route at San Bernardino and points east, offered solely through touring-car service.

The Commission is of the opinion and hereby finds as a fact from all the evidence in this proceeding that the Golden State Auto Tours Corporation was on and prior to May 1, 1917, actually operating in good faith automobiles for the transportation of passengers and their baggage as a common carrier for compensation over the route hereinabove particularly described between the termini of Los Angeles and Gilman's Relief Hot Springs, and serving only such intermediate points as are shown and designated on its tariff C. R. C. No. 2 effective March 21, 1917, and its time schedule No. 3 effective April 26, 1917, each on file with this Commission.

The Commission further finds as a fact from all the evidence in this proceeding that the Golden State Auto Tours Corporation at the time of the sale of its said operative rights to the G. & W. Stage Company authorized by this Commission in its Decision No. 7086, decided February 5, 1920, had cancelled and abandoned its service to certain intermediate points between Los Angeles and San Bernardino on its said route and was actually operating in good faith at the time of said transfer over said route the service as shown and designated by its tariff C. R. C. No. 3 effective April 1, 1918, on file with this Commis-

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sion; that is to say, said Golden State Auto Tours Corporation was actually operating in good faith on February 5, 1920, an automobile passenger service as a common carrier between the termini of Los Angeles and Gilman's Relief Hot Springs and serving only the intermediate points of Uplands, San Bernardino, Allesandro, Perris, Hemet, and San Jacinto.

ORDER.

Public hearings having been held in the above entitled proceeding, testimony and other evidence having been received and briefs filed, the matter having been duly submitted and the Commission being fully advised and basing its order on the findings of fact as set forth in the preceding opinion,

It is hereby ordered,

I. The Railroad Commission hereby approves the sale and transfer from the G. & W. Stage Company to the Motor Transit Company of the following described operative rights for and in consideration of a cash payment of $10,000.

(a) The right to operate automobiles for the transportation of passengers and their baggage as a common carrier for compensation over the following route between the termini of Los Angeles and Gilman's Relief Hot Springs: Leaving Los Angeles at Fifth and Main streets, thence north on Main street to the Plaza, thence past the county hospital to the public highway known as Huntingon Drive, thence passing through Oneonta Park, Arcadia, and Monrovia over and along Huntington Boulevard to the Foothill Boulevard near Azusa, thence passing through Glendora, Claremont and Uplands over and along the Foothill Boulevard to the Ontario-San Bernardino Boulevard, thence through Cucamonga, Etiwanda and Rialto to San Bernardino over and along the Ontario-San Bernardino Boulevard and thence over Colton Avenue to Colton, thence over Colton Avenue to Iowa Avenue, thence along Iowa Avenue, thence over Box Springs Grade to Alessandro, thence over the public highway through Perris, Hemet and San Jacinto to Gilman's Relief Hot Springs in Riverside County, and to serve only the intermediate points of Uplands, San Bernardino, Alessandro, Perris, Hemet and San Jacinto.

(b) The operative rights of the G. & W. Stage Company of an automobile stage line between San Jacinto and Soboba Hot Springs for the transportation of persons and express as heretofore authorized by this Commission in its Decision No. 7691, dated June 8, 1920, on Application No. 5746.

II. That the amount to be paid for the purchase of the said operative rights herein described shall not be considered as a measure of

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value of said operative rights before this Commission or any other authority for rate-fixing purposes or for any purpose other than the transfer herein referred to.

III. Applicant G. & W. Stage Company will be required to cancel immediately all tariffs and time schedules now on file with this Commission, and Motor Transit Company will be required to immediately file with this Commission a tariff identical with said tariff C. R. C. No. 3 effective April 1, 1918, and a time schedule identical with said time schedule No. 3 effective April 26, 1917, or to adopt as its own the aforesaid tariff and time schedule, each as heretofore filed by said Golden State Auto Tours Corporation, and said tariff shall contain the same rates as heretofore in effect therein.

IV. Motor Transit Company will be required to immediately file with the Commission tariffs and time schedules or to adopt as its own the tariffs and time schedules as heretofore filed by said G. & W. Stage Company in connection with its said operative rights between San Jacinto and Soboba Hot Springs, all of said tariffs to contain the same rates as heretofore in effect and covered by tariff filed by said G. & W. Stage Company.

V. No authority is hereby conveyed for the extension or expansion of any operative rights beyond those heretofore held by applicant G. & W. Stage Company and no authority is hereby given to merge and consolidate the said G. & W. Stage Company's franchises and operation with that of the Motor Transit Company's system of stage lines or to make the said G. & W. Stage Company's routes a portion of said Motor Transit Company's general system.

VI. No vehicle may be operated under this authority for transfer by Motor Transit Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

VII. The transfer of operative rights hereinabove authorized and the required cancellation of tariffs and time schedules by applicant G. & W. Stage Company and the filing of new tariffs and time schedules by applicant Motor Transit Company shall be made not later than thirty days from the date of the order herein.

Dated at San Francisco, California, this twenty-third day of November, 1922.

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DECISION NO. 11259

UNITED DREDGING COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, AND PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1725.

Decided November 23, 1922.

Bishop and *Bahler*, *R. T. Boyd* and *E. W. Hollingsworth*, for Complainant.
E. W. Camp, *B. Levy*, *H. W. Klein* and *G. F. Squires*, for Defendants.

BY THE COMMISSION.

OPINION.

In March, 1920, the complainant, a corporation engaged in the dredging business, shipped from Oakland to San Diego six cars and to Long Beach two cars each containing used pontoons and timbers. Charges were assessed on the basis of the second class rate of 60.5 cents applicable to pontoons. The complainant contends first, that the shipments were overcharged, the lawful rate being the Class "A" rate of 37.5 cents applicable to used contractor's outfits, and second, if the lawful rate was assessed it was unjust and unreasonable. Reparation is asked.

Each car contained four used pontoons and four used pine timbers 10″ x 10″ x 35′. The timbers weighed about 1000 pounds each and the average weight of the eight shipments was 43,175 pounds. The position of the complainant is that the pontoons come within the description of Outfits "Bridge-builders', contractors', or graders', N. O. I. B. N." found in Item 3, page 301 of Consolidated Classification No. 1, Note 8 of which reads as follows:

NOTE 8. Ratings apply on mixed carloads of used (not new) outfits, commonly known as contractors' outfits, and including implements, machines, vehicles other than motor vehicles, pulley or tackle blocks, tools, chain, rope, ladders, scaffolds, tents and tent fixtures, portable houses k. d., scows, dump cars, narrow gauge locomotives, rails or track or other used (not new) construction equipment, but will not include furniture, household goods, personal effects, nor construction materials.

The complainants lay particular stress on the words "or other used (not new) construction equipment." If complainant's contention be correct, the Class A rate was properly applicable. The defendants, on the other hand, insist that the shipments were properly rated as "Pontoons and pontoon wagons, bridge construction, with or without necessary bridge equipment" under Items 20 and 21, page 328 of the Classification. They assert, first, that construction outfits do not ordinarily include pontoons and, second, that the rating contended

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for by complainant applies only on mixed carload shipments while those here involved were actually straight carloads of pontoons, and as such subject to the second class rate, minimum weight 10,000 pounds.

The issue is one of tariff interpretation requiring first a determination of the actual consist of the shipments. The pontoons in question are described as water-tight boxes, completely decked, with a manhole leading into the box. They were made of pine lumber, sheathed with redwood and caulked with oakum and cost when new, with the timbers, about $200 each. By simply changing the position of the saddles the pontoon could be used lengthwise or in catamaran shape. The timbers are used only when the pontoons are placed in catamaran shape, thus giving greater stability in rough water. A witness for the complainant testified that "from a dictionary standpoint" a scow and pontoon are synonymous and, because of their general similarity, there was no justification for a higher rating on the one than on the other and no reason why pontoons should be rated higher than other articles transported as contractor's outfits or equipment. They are said to be of less value than many of the other commodities named in the item in question. Another witness testified that he regards the pontoons as a "part of a hydraulic suction dredging equipment." On behalf of the defendants it was shown that scows were included in the classification item covering contractors' outfits in 1887, and were at that time intended to cover small open boats in use by some contractors, while the designation pontoons covers pontoons of particular design used in engineering and dredging work, also by the army.

It is clear beyond question that the shipments here involved consisted not of scows, but of pontoons. It is likewise clear that timbers are not a necessary part of a pontoon, the latter being complete in and of itself. Upon arrival at destination the particular pontoons here involved were placed lengthwise, making unnecessary the use of the timbers. This fact, however, is of little importance since neither the rating nor rate may be determined from nor predicated upon the use made of the article at destination. The facts of record indicate that the shipments consisted of pontoons with supporting timbers and that the rate legally applicable to such shipments was assessed. This rate has not been shown to be unreasonable and the complaint will be dismissed.

ORDER.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report con-

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taining its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is ordered, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of November, 1922.

DECISION No. 11260.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE PROPOSED UNIFORM CLASSIFICATION OF ACCOUNTS FOR CARRIERS BY WATER.

Case No. 1760.

Decided November 23, 1922.

ACCOUNTS—WATER CARRIERS—UNIFORM SYSTEM.—In accordance with the terms of the Public Utilities Act, the Commission adopted and prescribed for carriers by water doing both an intrastate and interstate business, the classification of accounts of the Interstate Commerce Commission. Water carriers doing an exclusively intrastate business whose annual operating revenues exceed $500,000 are required to follow the I. C. C. classification. State carriers whose annual operating revenues are $500,000 or less are required to adopt a uniform classification prepared by the State Commission.

C. E. Crocker, for Bay Cities Transportation Company.
J. S. P. Dean, for Bay and River Boat Owners' Association.
C. G. Dall, for N. Fay & Sons.
E. Byrne, for E. H. Rideout & Company.
B. C. Schreiber, in propria persona.
N. E. Brown, for San Diego and Coronado Ferry Company.
D. H. Crowell, for Wilmington Transportation Company.

BY THE COMMISSION.

OPINION.

This is a proceeding instituted by the Commission on its own motion for the purpose of fixing and prescribing a uniform classification of accounts for carriers by water.

Public hearings were had in this matter before Examiner Westover in San Francisco and Los Angeles. Notice of these hearings was mailed to all carriers by water, and such carriers were given an opportunity to show cause why the Commission should not adopt the uniform classification of accounts prescribed by the Interstate Commerce Commission for carriers by water. A copy of the Interstate Commerce Commission's system of accounts is on file in this proceeding and marked "Commission's Exhibit A."

J. S. P. Dean, representing the Bay and River Boat Owners' Association, urges that a system of accounts more simple than that of the Interstate Commerce Commission, and contained in a single pamphlet,

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be prescribed for smaller carriers by water. With this exception, no one raised any objection to putting into effect the Interstate Commerce Commission's classification.

Section 48 of the Public Utilities Act empowers the Railroad Commission to establish accounting systems. It contains, however, this proviso:

> The system of accounts established by the Commission and the forms of accounts, records and memoranda prescribed by it shall not be inconsistent, in the case of corporations subject to the provisions of the act of congress entitled "An act to regulate commerce, approved February 4, 1887"; * * * with the systems and forms from time to time established for such corporations by the Interstate Commerce Commission, but nothing herein contained shall affect the power of the Commission to prescribe forms of accounts, records and memoranda covering information in addition to that required by the Interstate Commerce Commission.

Therefore, as to those carriers who may be engaged in both intrastate and interstate business and thus subject to the jurisdiction of both the Railroad Commission and the Interstate Commerce Commission, the Railroad Commission by the order contained herein adopts and prescribes, in so far as it has jurisdiction, the classification of accounts prepared and prescribed by the Interstate Commerce Commission and now in effect.

There appear to be some carriers who are engaged only in intrastate business and therefore subject only to the jurisdiction of the Railroad Commission. For the purpose of accounting, such carriers have been divided into two classes. Class A includes all carriers having annual operating revenues of more than $500,000, while Class B includes all carriers having annual operating revenues of $500,000 or less. This division is in line with that of the Interstate Commerce Commission.

Carriers who fall within Class A will be required to keep their accounts and records in accordance with the uniform classification of accounts of the Interstate Commerce Commission.

Using the Interstate Commerce Commission's classification as a basis, the Railroad Commission's department of finance and accounts has prepared a uniform classification of accounts for Class B carriers. A copy of this classification is on file in this proceeding and for the purpose of identification has been marked "Commission's Exhibit B."

The order herein requires all carriers, unless excused by the Commission in writing, to keep their accounts either in accordance with the Interstate Commerce Commission's classification or in accordance with the classification prepared by this Commission's department of finance and accounts. The Commission may, for good cause shown in writing, authorize in specific instances deviations from the uniform classification of accounts adopted and prescribed by the order. Any

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violation of the order makes a carrier liable for the penalties provided in the Public Utilities Act.

ORDER.

Public hearings having been held in the above entitled matter and the Commission having given due consideration to the evidence submitted at such hearings;

It is hereby ordered and directed, that all carriers by water having annual operating revenues of more than $500,000 and subject to the jurisdiction of the Railroad Commission; also all carriers by water engaged in intrastate and interstate business and therefore subject to the jurisdiction of both the Railroad Commission and the Interstate Commerce Commission, must, on and after January 1, 1923, keep their accounts and records in accordance with the uniform classification of accounts prescribed by the Interstate Commerce Commission, which uniform classification of accounts is hereby adopted and prescribed by the Railroad Commission in so far as it has jurisdiction over the accounts and records of all carriers described in this paragraph. A copy of said classification is on file in this proceeding and marked "Commission's Exhibit A."

It is hereby further ordered and directed, that all carriers by water whose annual operating revenues are $500,000 or less and who are subject to the jurisdiction of the Railroad Commission and not to the jurisdiction of the Interstate Commerce Commission, must, on and after January 1, 1923, keep their accounts and records in accordance with the uniform classification of accounts contained in the "Commission's Exhibit B" filed in this proceeding, which classification of accounts is hereby adopted and prescribed by the Railroad Commission for the carriers described in this paragraph.

It is hereby further ordered, that upon giving written notice to the Commission and with the written approval of the Commission, any carrier by water coming within Class B may keep its accounts and records in accordance with the system of accounts prescribed by the Interstate Commerce Commission and adopted by this Commission.

Dated at San Francisco, California, this twenty-third day of November, 1922.

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DECISION No. 11262.

W. W. ALLEN AND JOE OLINSKY, DOING BUSINESS AS A CO-PARTNERSHIP UNDER THE NAME OF COAST LINE FREIGHT AND STAGE COMPANY,

vs.

MILTON MOYLES, J. W. MATHEWS, GUS DAUBENICK, PETE LUZZI, AND ED. BARFF.

Case No. 1740.

Decided November 23, 1922.

MOTOR STAGES—"RENT CAR" SERVICE—EVASION OF LAW—IRREGULARITY OF OPERATION.—The Commission holds that operation at irregular hours and under the guise of "rent car" service is an attempted evasion of the statute in that it is the operation of an automobile "for compensation, between fixed termini and over a regular route," which operation is specifically prohibited by the statute unless duly authorized by a certificate of public convenience and necessity. The statute does not provide exemption from its provisions because the operation is irregular, either as to time at which given or as to fares which may be charged at the whim of the operator.

Devlin and Brookman, by *Douglas Brookman*, for Complainants.
J. W. Kingren, for Milton Moyles, Defendant.
Pete Luzzi in propria persona, Defendant.
Ed. Barff in propria persona, Defendant.
Piersol and Stone, by *Leonard Stone*, for Gus Daubenick and J. W. Mathews, Defendants.

BY THE COMMISSION.

OPINION.

In this proceeding, Allen and Olinsky, a copartnership operating under the fictitious name of Coast Line Freight and Stage Company, complain of defendants and allege that said defendants, and each of them, are without legal authority or certificate of public convenience from the Railroad Commission, operating regularly over the highways of the state in the business of a common carrier, either of passenger or freight or of passenger and freight; that such alleged illegal operation is conducted over routes over which complainants are duly authorized to operate passenger and freight operation under the provisions of chapter 213, Statutes of 1917, and amendments thereto; that the alleged illegal operation is unlawfully infringing upon the rights of complainants and is depriving said complainants of business to which they are entitled and which, if the alleged unlawful operation were not being conducted, complaints would obtain; that the alleged unlawful operation complained of is in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto, and is in contempt of the jurisdiction and authority of the Railroad Commission. Complainants pray for an order of the Railroad Commission finding that defendants, and each of them, have no right to operate as a transportation company, as defined by the provisions of

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chapter 213, Statutes of 1917, and amendments thereto, over the public highways and on the routes referred to in the allegations of the complaint; that the defendants, and each of them, are operating in violation of the hereinabove mentioned statutory enactments and of the authority and jurisdiction of the Railroad Commission; and directing the defendants to immediately cease and hereafter discontinue the alleged unlawful operation.

Defendants, Milton Moyles, Gus Daubenick, Pete Luzzi and Ed. Barff, filed their answers herein, such answers being general denials of the material allegations of the complaint.

A public hearing on this matter was conducted by Examiner Handford at Fort Bragg, the matter was duly submitted and is now ready for decision.

Complainants' alleged unlawful operation has been conducted by defendant, Milton Moyles, in the operation of auto stages as a common carrier of freight and passengers between Point Arena and Fort Bragg and intermediate points; by defendant, J. W. Mathews, in the operation of auto stages for the carriage of freight between Fort Bragg and Elk and intermediate points; by defendant, Gus Daubenick, in the operation of auto stages as a common carrier of passengers between Casper, Fort Bragg and intermediate points; by defendant, Pete Luzzi, in the operation of auto stages as a carrier of passengers between Albion and Fort Bragg and intermediate points; and by defendant, Ed. Barff, in the operation of auto stages as a carrier of passengers between Little River and Fort Bragg and intermediate points.

Defendant, Pete Luzzi, a witness for complainants, testified that he had carried passengers for compensation between Fort Bragg and Albion, that he has neither owned nor operated a machine in such service during the eight months previous to the hearing, and that he did not propose to reenter the business of a passenger carrier.

Defendant, J. W. Mathews, called as a witness for complainants, testified that he hauled beef and cream by auto truck between Fort Bragg and Greenwood and intermediate points. This defendant testified that he had been doing similar hauling for a period of four years and that he held himself out to do hauling of any commodity offered at a rate of three-quarters of a cent per pound, also that he hauled to points not over one mile distant from the main route between Fort Bragg and Greenwood at a rate of $1 per cwt. The name of this defendant is shown as a commercial hauler in the February, 1922, issue of Motor Transport Shipping Guide, as serving the territory between Fort Bragg and Greenwood at a rate of $1 per cwt. on first-class commodities, and in explanation of such listing witness testified that the information was solicited by the publisher of the shipping

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guide and that a response was made to such request, although no amount had been paid for such representation in the publication. The witness testified that he had been advised to apply to the Railroad Commission for a certificate of public convenience and necessity, but had made no application or other inquiry to the Railroad Commission as to his status as an operator or as to whether his operation came within the provisions of the statutory law. This applicant succeeded to the business of one Ordway, a wholesale butcher, and began hauling meat under contract for Ordway during the year 1918. He hauls beef from Fort Bragg to Mendocino and Greenwood and as a back-haul in connection with his meat contract has hauled cream since 1918 from Greenwood to Fort Bragg. Witnesses testified as to the carriage by defendant, Mathews, of laundry between Fort Bragg and Elk-Greenwood; cream between Greenwood and Fort Bragg; and butter from Greenwood to Fort Bragg.

L. E. Milliken, a wholesale butcher, testified that he was the successor to the business of Ordway and operated at a point known as Ranch on the Noyo River (a short distance from Fort Bragg). He supplied his trade at Greenwood and Elk by making shipments from Ranch over the railroad line of the California Western Railway and Navigation Company to Fort Bragg, thence by the use of the stages of defendant, Mathews, to their destination. A verbal contract was made for the transportation of the meat, and for such transportation between Fort Bragg and Greenwood-Elk, Mathews was paid at the rate of seventy-five cents per cwt. On return trips dressed veal and live hogs were sometimes carried. The verbal contract had no definite date of termination, but was to exist so long as proper service was given, the reason of the witness for patronizing Mathews being the care and proper handling given to the shipments, deliveries being made in a satisfactory manner and the product being kept free from contact with other freight shipments. Some business has been given to the stage line operated by the complainants, at times when the truck of defendant, Mathews, was broken down and no complaint was made that such shipments were not satisfactorily handled and delivered.

From a review of the evidence as regards the complaint herein, in so far as it refers to the alleged illegal operations of defendant, J. W. Mathews, it is apparent that such evidence fully sustains the allegations of the complainants and we hereby find as a fact that the operation of auto trucks by defendant, J. W. Mathews, as a carrier of freight between Fort Bragg, Greenwood, Elk and intermediate points is in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto, for the reason that such operation was not being conducted in good faith over the regular route and between the fixed

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termini of Fort Bragg, Greenwood and Elk, on May 1, 1917, nor has a certificate of public convenience and necessity authorizing such operation ever been applied for or granted by the Railroad Commission.

As regards the portion of the complaint herein against Milton Moyles as defendant: By stipulation of counsel, complaint was amended by substituting the firm of J. Moyles and Sons as defendants in lieu of Milton Moyles.

The firm of J. Moyles and Sons has a contract with the Western Refrigerating Company under which the transportation of dairy products requires the operation of auto truck service by such defendant. A certified copy of the contract was introduced as evidence in this proceeding. The contract provides for the receipt of cream by defendant, J. Moyles and Sons, from dairymen on the Mendocino Coast at such place or places as may be agreed upon, for the weighing, sampling, testing, hauling and delivery of such cream to either the express office of the American Railway Express Company or to the depot of the Northwestern Pacific Railroad Company at Fort Bragg; to account for and treat as private property all cans; to take care of and watch over the general welfare of the business; collections and deliveries to be made at least twice each week; proper statements of weights and tests to be made, which statements are to be the basis upon which payment is to be made for all cream by the Western Refrigerating Company to the dairymen and members of the Point Arena Grange. Defendant, J. Moyles and Sons, receives as compensation for the service performed under the contract the sum of two and three-quarters cents per lb. on the butter fat content of the cream tested, handled, hauled and shipped, such amount covering all work performed, which includes the return of empty containers. The contract was made under date December 1, 1921, for a term of one year. Witnesses testified that formerly the cream was handled by the line of complainants and that the service was unsatisfactory. It does not appear from the evidence that this defendant hauls other freight than the cream as an incidental part of its contract with the Western Refrigerating Company.

As regards the complaint against this defendant, it appears from the evidence that the transportation of cream from Point Arena to Fort Bragg and returning of empty containers is but a portion of the service rendered by defendant in connection with its contract with the Western Refrigerating Company, that such contract fixes a definite compensation for all the service to be rendered by defendant and that no segregation is made as to the amount to be paid for transportation as distinguished from the other services to be rendered. There is no evidence before the Railroad Commission indi-

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cating that any shipments have been hauled by this defendant other than the cream and returning empty containers required by the contract or that the defendant is now holding, or at any time in the past, has held itself out as a carrier of freight between Fort Bragg and Point Arena and intermediate points. We are therefore of the opinion and hereby find as a fact that the carriage of cream between Point Arena and Fort Bragg and returning empty containers from Fort Bragg to point of origin, such carriage being but a portion of an obligation to which defendant, J. Moyles and Sons, is required to conform under the provisions of a contract with the Western Refrigerating Company, said contract covering all services mutually agreed upon to be performed for a fixed compensation in which the item of transportation is not specifically set forth or allocated, is not a violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto, or that a certificate of public convenience and necessity is required from the Railroad Commission authorizing this defendant to continue such operation as may be necessary to comply with the provisions of the contract herein referred to.

As to the complaint against defendant, Gus Daubenick: This defendant is the proprietor of a barber shop and cigar store at Caspar. He also owns two automobiles and uses same in rent service at Caspar, making trips to all points desired by his patrons, including Fort Bragg. Frequent trips are made to Fort Bragg, on some days two or three trips. Fares are charged according to the expense of operation or as to whether other business of defendant requires his attention. The fare for one person alone is from $2 to $2.50 according to whether any wait is to be made at Fort Bragg, if four or five passengers are secured a charge of from $1 to $1.25 per round trip is assessed. For one-way trips, charges of from 50 cents, 65 cents or 75 cents are made, depending upon the number of passengers secured and the defendant's judgment of the amount that should be paid. It is the practice of this defendant in bringing one-way loads from Caspar to Fort Bragg to obtain, if possible, return passengers for Caspar. The demand for transportation between Caspar and Fort Bragg is relied upon as the necessity for defendant's operation, prospective patrons desiring immediate service and at other than scheduled stage time. This demand has been met by defendant in the operation of his automobiles as an alleged rent service at any rate procurable, either for one passenger or as many as his cars would transport.

If a demand exists for a local service between Caspar and Fort Bragg, and such demand is not met by the existing authorized stage line, the remedy is either a complaint as to inadequate service or an application to the Railroad Commission for a certificate of public con-

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venience and necessity in which application a supporting reason for the establishment of the proposed service, among any others, would be the alleged fact that the public required additional service at other times than the hours of scheduled trips of the authorized stage line. Operation, at irregular hours and under the guise of "rent car" service, particularly as has been conducted by this defendant is an attempted evasion of the statutory law in that it is the operation of an automobile "for compensation, between fixed termini and over a regular route," which operation is specifically prohibited by the statute unless duly authorized by a certificate of public convenience and necessity after proper application and subsequent order of the Railroad Commission. The statute does not provide exemption from its provisions because the operation is irregular, either as to time at which given or as to fares which may be charged at the whim of the operator.

We are of the opinion and hereby find as a fact that the operation of automobiles as heretofore conducted by defendant, Gus Daubenick, between Fort Bragg and Caspar as a carrier of passengers has been operated over a regular route and between fixed termini and without compliance with the provisions of chapter 213, Statutes of 1917, and amendments thereto, in that no certificate of public convenience and necessity has ever been applied for or granted by the Railroad Commission as required by such statutory enactment.

Ed. Barff, defendant herein, testified that he was the owner of a ranch at Little River and was engaged in business in Fort Bragg; that he had carried passengers for hire, but on the basis of hiring out the entire car, no individual passengers being accepted nor individual fares; that for a year last past no operation has been conducted for the reason that defendant has now moved to and has his residence in Fort Bragg.

As to this defendant, the evidence shows that the operation complained of has been suspended for a period of a year, and that such operation when conducted was not in violation of the statutory law.

At the hearing on this proceeding a motion was made by attorneys for defendants that the complaint in this proceeding be dismissed as to all defendants for the reason complainants on April 8, 1922, were not authorized to operate a stage and truck line under the jurisdiction of the Railroad Commission and in conformity with the provisions of the statutory enactment. The motion was taken under advisement by the examiner for the consideration and decision of the Commission. The complaint herein was filed with the Railroad Commission on April 10, 1922, service was made upon defendants by mailing an order to satisfy or answer on April 19, 1922, and answers of defendants were thereafter filed with the Railroad Commission. On April 5, 1922, an appli-

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cation was filed with the Railroad Commission requesting authority to transfer from W. W. Allen to W. W. Allen and Joe Olinsky, as copartners, the equipment and operative rights of the stage line operated under the fictitious name of Coast Line Freight and Stage Company, and such application was assigned No. 7723 on the docket of the Railroad Commission and thereafter granted by this Commission on April 12, 1922, by its Decision No. 10308, the application containing as an exhibit the articles of copartnership which were dated April 12, 1920. The basis of the application as stated in the order granting the transfer was as follows:

> Applicants state in their petition that they have been copartners in the conduct of this stage business for several years, but that through ignorance of the provisions of chapter 213, Statutes of 1917, as amended, they were unaware that an order of the Commission was necessary to legally transfer a one-half interest in the operative right. The present application is made to legalize the operation of this stage line as a copartnership.

Rule II, Section 1 of the Rules of Procedure of the Railroad Commission refers to the matter of formal complaints and provides in part as follows:

> Complaint may be made * * * by any corporation or person * * *, by complaint in writing, setting forth any act or thing done * * *, or claimed to be in violation, of any provision of law or of any order or rule of the Commission. Any public utility shall have the right to complain on any of the grounds upon which complaint may be made by other parties.

In the opinion of the Commission the fact that the complainants were not legally of record as the operators of the stage line on the date of the verification of the complaint is not a sufficient reason for the granting of the motion to dismiss the complaint, and the status of complainants is fully of record with the Commission and the matters complained of are alleged violations of law and a proper subject of complaint by any interested citizen. The motion to dismiss will therefore be denied.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered,

I. That the motion for dismissal of this complaint as to all defendants be and, for the reasons heretofore set forth in the preceding opinion, it hereby is denied.

II. That J. W. Mathews, defendant herein, immediately cease operation as a carrier of freight by auto truck between Fort Bragg, Greenwood, Elk and intermediate points.

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III. That Gus Daubenick, defendant herein, immediately cease the operation of automobile stages as a common carrier of passengers between Fort Bragg and Caspar and intermediate points.

IV. That this complaint, in so far as it refers to alleged illegal operation by defendants, J. Moyles and Sons (substituted for defendant, Milton Moyles), Ed. Barff and Pete Luzzi has not been substantiated by the evidence herein and is therefore dismissed as to such defendants.

Dated at San Francisco, California, this twenty-third day of November, 1922.

DECISION No. 11263.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS PRINCIPAL AMOUNT OF FIRST MORTGAGE SIX PER CENT BONDS, SERIES "B."

Application No. 8284.

Decided November 23, 1922.

F. M. Angellotti and *James S. Moore, Jr.*, by *F. M. Angellotti*, for Applicant

BENEDICT, *Commissioner.*

OPINION.

In this application, as amended, The Western Pacific Railroad Company asks permission to issue and sell, at not less than 92 per cent of their face value plus accrued interest, $5,500,000 of its first mortgage Series "B" 6 per cent bonds due March 1, 1946, and to use the proceeds to purchase additional equipment or to reimburse its treasury for moneys expended from income or from other moneys not derived from the issue of stock, bonds, notes or other evidences of indebtedness, in acquiring such additional equipment.

The record shows that applicant proposes to purchase two thousand, thirty-ton capacity, forty-foot steel underframe refrigerator cars with forty-ton capacity trucks and ice capacity of 10,500 pounds and also one hundred new automobile cars, of either forty or fifty-ton capacity and of a cubical capacity of approximately 3681 cubic feet. It appears that a contract has been made with American Car and Foundry Company for the construction of the refrigerator cars at an aggregate cost of $5,287,230, delivery to be made on or before April 15, 1923. While no contract has been executed for the acquisition of the automobile cars, it is estimated that they will cost $225,000. The total approximate purchase price of the equipment is reported at $5,512,230.

It is to finance the cost of the equipment that applicant now asks permission to issue and sell $5,500,000 of its first mortgage bonds.

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These bonds are part of an authorized issue of $50,000,000 secured by mortgage or deed of trust, dated June 26, 1916, to First Federal Trust Company and Henry E. Cooper, trustees. The mortgage provides, among other things, for an initial issue of $20,000,000 of 5 per cent bonds due March 1, 1946, and for the issue of the remaining $30,000,000 of bonds at such rate or rates of interest, not exceeding 6 per cent per annum and to be redeemable at such price or prices as the board of directors of the company may determine at the time of issue.

Heretofore, the Commission has authorized the issue of $24,180,000 of 5 per cent bonds and $3,000,000 of Series "B" 6 per cent bonds. The bonds now proposed to be issued are additional Series "B" bonds, mature on March 1, 1946, and are redeemable upon any interest payment date before maturity at the option of the company at 102½ per cent of face value, plus accrued interest. It is proposed to sell the bonds now applied for at not less than 92 per cent of face value plus accrued interest.

I herewith submit the following form of order:

ORDER.

The Western Pacific Railroad Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that The Western Pacific Railroad Company be and it is hereby authorized to issue and sell for cash, on or before April 15, 1923, at not less than 92 per cent of their face value plus accrued interest, $5,500,000 of its first mortgage Series "B" 6 per cent bonds due March 1, 1946, and to use the proceeds to pay for the additional equipment referred to in the foregoing opinion, or to reimburse its treasury for moneys expended from income or from other moneys not derived from the issue of stock, bonds, notes or other evidences of indebtedness, in the payment of the purchase price of such equipment.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General

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Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of November, 1922.

DECISION No. 11264.

IN THE MATTER OF THE APPLICATION OF BAKERSFIELD AND KERN ELECTRIC RAILWAY COMPANY, A CALIFORNIA CORPORATION, FOR AN INVESTIGATION OF ITS CHARGES AND SERVICE.

Application No. 7230.

Decided November 23, 1922.

EXTENSION—STREET RAILWAY—JURISDICTION—OPERATION AT LOSS.—The Commission holds it has the power to order an extension of a street railway line, but that such an order can not be made where the evidence indicates that the extension would be operated at a loss.

Murray Bourne, for Applicant.
E. F. Brittan, City Attorney, for City of Bakersfield.
George W. Wilkins, for Boosters Club of East Bakersfield.
J. J. Deuel, for Kern County Farm Bureau.
Jay A. Hinman, for the East Side.

BY THE COMMISSION.

OPINION.

In this application Bakersfield and Kern Electric Railway Company, operating the street railway in Bakersfield, Kern County, asks the Commission to

(a) Investigate the earnings and expenses of applicant and rate of return yielded thereby;

(b) To permit applicant to file a new and revised schedule of rates, tolls, fares and charges sufficient to properly compensate applicant for service rendered;

(c) To determine what, if any, additions, extensions or increases of applicant's system or facilities should be made and terms and conditions thereof, and

(d) For such other relief as in the premises shall appear proper.

In the application it is alleged that at the present time, and for a number of years past, the earnings accruing to applicant from the

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operation of the railway have not been sufficient to compensate it for its effort and investment, and that it is being requested and called upon by its patrons to increase and to extend its service, which extension and increase appear to be wholly unreasonable and impossible.

Public hearings were held in Bakersfield June 6, 1922, and September 8, 1922, before Examiner Eddy.

At the first hearing applicant presented its case, submitting various exhibits, including a valuation and statements of revenues, expenses and return earned. At this hearing it was arranged that the engineering department of the Commission would have an opportunity to examine these exhibits before a further hearing and it was suggested that the engineering department make an independent investigation of the service, operating and financial conditions.

The Boosters' Club of East Bakersfield asked that the Commission consider an extension of the railway into East Bakersfield, this rail service to supersede the present bus service. (East Bakersfield, as herein used, means that portion of the city of Bakersfield lying north of the Southern Pacific tracks and adjacent to Baker Street.)

The engineering department was thereafter instructed by the Commission to proceed and, about one week prior to the second hearing, its valuation and the report on the service, operating and financial conditions of applicant were prepared and submitted to the parties to this proceeding.

Valuation.

At the second hearing Mr. H. G. Weeks, the Commission's transportation engineer, introduced the engineering department's valuation of the properties of applicant and its report on the service, operating and financial conditions of these properties, the former being identified as Commission's Exhibit No. 1 and the latter as Commission's Exhibit No. 2. He also introduced a report dealing with the original cost of the properties, supplemental to the valuation, as Commission's Exhibit No. 3.

In Commission's Exhibit No. 1 the valuation of the properties of Bakersfield and Kern Electric Railway Company as of June 30, 1922, is stated as follows:

Class of property	Historical reproduction cost	Condition per cent	Historical reproduction cost less depreciation
Operative	$558,464 00	61	$339,342 00
Nonoperative	12,062 00	71	8,586 00
Totals	$570,526 00	62	$347,928 00

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The valuation submitted by applicant in its Exhibit No. 1 is as of June 30, 1915, but since by use of applicant's Exhibit No. 2 we find only $2,720 as net additions from this date to December 31, 1921, the difference in dates is not important and applicant's 1915 valuation may be compared with the valuation of the engineering department. The comparison for operative property alone can not be made as applicant's valuation did not present this segregation and because also some property operative on June 30, 1915, was, on June 30, 1922, nonoperative:

		Operative and nonoperative property		
Valuation of	Date of valuation	Reproduction cost	Per cent	Reproduction cost less depreciation
Applicant	June 30, 1915	$638,164 00	87	$555,814 00
Engineering dept.	June 30, 1922	570,526 00	62	347,928 00
Difference		$67,638 00	25	$207,886 00
Applicant exceeds engineering department		12%		60%

The record does not disclose any evidence which warrants a change in figures submitted by the engineering department.

From Commission's Exhibit No. 3 it appears that the annual reports submitted to the Commission show investment in road and equipment to December 31, 1921, of $840,972.71 and that an analysis of applicant's records shows that this does not represent the actual cost of the properties. This is because it includes not only the cost of the present system but the cost of facilities retired and replaced, but not retired from the books; because, on August 1, 1910, new books were opened and certain accounts were appreciated and the opening entries on the new books were found to be greater than the corresponding closing entries of the predecessor company and also because franchises were entered at large values, in excess of cost.

Exhibit No. 3 also shows that omitting the so-called overhead accounts (engineering, interest, etc.) and land, in which two items it is reasonable to expect a difference, the historical reproduction cost is but two-tenths of one per cent less than the restated book cost as appears from the following figures:

Book cost, restated	$493,512 00
Historical reproduction cost	492,627 00
Difference	$885 00

NOTE.—Figures exclude Accounts 501—Engineering, 502—Land, and all General Accounts—546 to 550.

The fact that these two figures are so nearly together indicates a close check, one figure against the other.

Physical Characteristics.

The Bakersfield and Kern Electric Railway, which is controlled, through stock ownership, by San Joaquin Light and Power Corpora-

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tion, has no competition, operating and owning 10.22 miles of revenue tracks, 4.515 miles of which are double track, and 3 route miles of motor bus service, all within the city of Bakersfield. Over 90 per cent of the track mileage is laid with grooved rail and permanent pavement, both being the result of municipal requirements, and both high percentages for a system of this size.

Service is given by eleven cars and six busses. Six of the cars are equipped with a good type of motor and air brakes and the remainder are of an older type with hand brakes. All of the busses are truck chassis with solid tires; three are Ford, two are Studebaker and one Pierce Arrow. The latter has a twenty-five passenger body; the others twelve passenger bodies. The railway owns two motor generator sets totaling 525 kilowatts and located in the steam generating station of the San Joaquin Light and Power Corporation.

Service and Operation.

The railway service given may be considered reasonably good in view of the amount of traffic possible to develop in a city of this size. The bus service is evidently not so satisfactory, because of the poor riding qualities of the busses, delay and interruptions, thought to result from the poor condition of the street surface. The road appears to be economically operated. The railway cost of operation per car mile is one of the lowest in the state, the level tracks being, of course, an important factor. The bus service is not so economical as the rough streets result in excessive repair and depreciation costs. Aside from the suggestion of eliminating early and late trips and for an extension of one-man operation, the engineering department did not point out any economies which would reduce operating expenses, although it mentions that paving the streets over which the busses operate would not only improve the service, but reduce the cost of bus operation.

Return and Rate of Return.

In Commission's Exhibit No. 2 the following rate base was suggested:

Historical reproduction cost as of June 30, 1922	$558,464 00
Materials and supplies as of June 30, 1922	9,850 00
Total suggested rate base	$568,314 00

There is presented in Commission's Exhibit No. 2 an analysis of applicant's revenues, expenses and service. The operating expenses have been carefully examined in great detail and applicant's figures restated where necessary and also brought up to a later date. The

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engineers making the valuation computed as they proceeded a depreciation annuity consistent with the valuation. This was then considered in connection with operating expenses so that the figures for operating expenses, including depreciation, as stated in the following quotation, are free from either duplications or omissions that might otherwise be present.

It appears well to quote from this exhibit, the figures in which were not controverted, as to applicant's revenues, expenses, income and rate of return:

Income Statement.

Item	Actual year 1921 restated	Actual year to June 30, 1922	Estimate year to June 30, 1923
Operating revenues	$138,452 00	$130,266 00	$136,000 00
Operating expenses (including depreciation $13,568)	109,038 00	106,921 00	106,508 00
Railway operating revenue	$29,414 00	$23,305 00	$29,492 00
Taxes, operative	8,827 00	9,338 00	9,477 00
Net income available for return	$20,587 00	$13,967 00	$20,015 00
Return on rate base above	3.61%	2.46%	3.52%

Estimated Savings.

Omission first and last single trips	$1,100 00
One-man operation throughout	12,000 00
Total	$13,100 00
Total, as rate of return	2.30%

It will be noted that for the year ending June 30, 1923, and continuing the present system of operation the rate of return is shown as 3.52 per cent, but that certain economies in operation, we believe, may be effected which will decrease the operating expenses $13,000, equivalent to an increase of rate of return 2.30 per cent so that with these savings applicant should earn at the rate of 5.82 per cent.

These figures may be compared with those presented by applicant in its Exhibit No. 3 as follows, although applicant did not make any estimate for the future.

	Applicant's Exhibit No. 3	Engineering Department 1921	Engineering Department Year to June 30, 1923
Rate base	$630,666 00	$568,314 00	$568,314 00
Net income available for return	22,067 00	20,587 00	20,015 00
Rate of return on rate base	3.50%	3.61%	3.52%

The estimated savings in the cost of operation as above stated consist of the omission of the first and last single trips of all the cars and busses, which our investigation leads us to believe are now unnecessary. It also includes a change to one-man operation on the so-called main line. This also appears feasible, but will require the cooperation of everybody concerned to make it successful. This is because the running time between the Southern Pacific Station and Nineteenth and Oak streets is now rather short on the fifteen-minute headway for two-man operation, and in order to maintain this headway with one man on the cars it is so important to gain every possible advantage that we believe the city of Bakersfield should obviate the five positive stops now required of the company.

The next statement shows the rate of return under different conditions and different rates of fare. It has been our experience that an increase in fare from 5 cents to 6 cents usually adds about 12 per cent to the gross revenue instead of increasing it to the same extent that the fare is increased, 20 per cent. In a smaller city like Bakersfield we doubt if this 12 per cent will be realized and have used 10 per cent.

Rate of Return Statement.

Condition—	Rate of Fare 5c	Rate of Fare 6c
Present system of operation	3.52%	5.74%
With suggested savings in operation	5.82%	8.04%

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Extensions of Service.

As mentioned above, the Boosters' Club of East Bakersfield appeared and asked that the present bus service on Baker and Niles streets be superseded by rail service.

Protestant's Exhibit No. 1 shows that between February 2, 1921, and September 5, 1922, building permits have been issued by the city of Bakersfield for 237 buildings, practically all dwellings, to be erected in East Bakersfield. The total cost as shown by these permits is $606,025. This indicates a considerable growth in this section of the city and were it not for other considerations would be regarded as an important factor in extension of applicant's lines into East Bakersfield. The Boosters' Club suggested the construction of an extension on the following route:

Commencing at the present tracks at Grove and Kern streets northerly along Kern to Monterey, easterly on Monterey to Williams, northerly on Williams to Flower, westerly on Flower to Kern and southerly on Kern to the point of beginning at Grove street, this line forming a loop approximately three miles in length.

The engineering department estimates the cost of this extension based upon a grade crossing of twelve (12) tracks of the Southern Pacific across Kern street at $172,575. The annual cost of service, based upon shuttle service, with two new cars, transferring at Grove and Kern streets, is $29,815, including interest on the additional investment. The revenue from the Baker and Niles street busses amounts to approximately $12,900 or, on the basis of the ratio of system total passengers handled, the revenue of these bus lines would be approximately $17,600. It is evident that under present conditions such an additional investment is not justified. Since it seems important that the railway reach the Southern Pacific station, operation is estimated on the basis of a transfer at Grove and Kern streets.

The engineering department also made an estimate of the cost of extending the railway on the route operated by the present bus service in East Bakersfield, based also upon a grade crossing of the Southern Pacific tracks. The total estimated cost is $93,472 and the estimated cost of operation, including interest on the total investment, is $20,170. It is evident that here, too, revenues would not meet operating expenses and a reasonable interest charge on the new investment. This plan would have the advantage of operation without a transfer.

The evidence is unanimous that a grade crossing of applicant's tracks with either the twelve Southern Pacific tracks at Kern street or the eight at Baker street would not be safe. Under these circumstances it appears that a formal proceeding involving the crossing of the Southern Pacific tracks either at grade or at separated grades must be filed and decided by the Commission as no determination of the crossing question can be made until the parties at interest, particularly the

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Southern Pacific Company, are given an opportunity to appear and be heard.

This Commission has, we believe, the power to order an extension, but such an order can not be made where the evidence indicates that the extension would be operated at a loss; and as to an increase in fare designed to take care of such a loss it must be obvious that this can not be determined until the cost of the facilities necessary is found and since the crossing of the Southern Pacific may add to the costs above stated, it is impossible at this time to even estimate the added operating costs which will undoubtedly result from rail service into East Bakersfield.

At the last hearing a committee of three engineers, one representing the city, one the applicant and one the Commission was suggested; this committee to make a further study of extensions and make a report to the Commission. Since, however, a formal proceeding for the determination of the crossing feature, as mentioned above, will be necessary regardless of the report of this committee and because such proceeding may either never be filed or filed so far in the future, it seems advisable at this time to issue a decision on the basis of dealing with conditions as they are and without consideration of an extension into East Bakersfield. At the same time it is suggested to applicant and to the city of Bakersfield that either, or both jointly, file such a grade separation proceeding as a step necessary in the question of an extension into East Bakersfield.

The street railway in Bakersfield takes roughly the form of a cross. The Chester avenue line operates on two opposite arms, north and south, while the main line forms the other two opposite arms, east and west. The two lines intersect at the business center, where a large part of the traffic originates and is destined. The Chester avenue arms are roughly three-fourths of a mile in length. The west arm of the main line is divided as to service, every other car going to the Santa Fe depot, about six-tenths of a mile, the alternate car running to West Oak street, one mile. The east leg of the main line is the longest, something over 1½ miles, terminating at the Southern Pacific station. The bus lines extend from the Southern Pacific station and also from the line terminating at the Santa Fe depot. Fifteen minute service is given on the Chester avenue line and from the Santa Fe station and Oak street, so that on the main line east of F street cars are operated on a 7½ minute headway.

This data is presented for consideration in connection with an increase of fare as it appears that with distances so short and with a fifteen-minute headway the tendency to walk, no doubt, would be very strong and there is considerable doubt if an increase in fare will result in an increase in revenue.

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Bakersfield has had a healthy growth the last decade. The number of passengers and revenues should increase; operating expenses, because of declining or stationary material and labor costs, should either remain as they are, or decrease. The rate of return of 5.82 per cent, *supra*, is approximately twice the average rate heretofore earned by applicant.

Applicant should have the opportunity to perfect the recommended changes in service and the city of Bakersfield to amend regulations affecting the positive stops now required, and because of the reasonable doubt that an increased fare would produce additional net revenue and since it is concluded that a return of 5.82 per cent is a fair and reasonable return, and that conditions are more propitious than unfavorable toward a future increase of this rate of return application should, therefore, be dismissed as to permission to file a new and revised schedule of rates.

If, however, within a reasonable time it shall appear that the conclusions and estimates upon which this decision is based are not substantiated by applicant's actual experience, the matter can again be considered by the Commission.

ORDER.

Bakersfield and Kern Electric Railway Company having asked for an investigation of its earnings, expenses and the rate of return yielded thereby; for permission to file new and revised rates; for a determination of what, if any, additions, extensions or increases of applicant's system should be made; public hearings having been held, the matter having been submitted for the reasons stated in the foregoing opinion;

It is hereby ordered, that the application herein be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-third day of November, 1922.

DECISION NO. 11265.

IN THE MATTER OF THE APPLICATION OF NORTHERN OIL COMPANY, A CORPORATION, TO SELL, AND KERN SUNSET OIL COMPANY, A CORPORATION, TO PURCHASE, THE WATERWORKS OF SAID NORTHERN OIL COMPANY.

Application No. 8276.
Decided November 23, 1922.

Chaffee E. Hall, for the Northern Oil Company.
J. W. Wiley, for the Kern Sunset Oil Company.

BY THE COMMISSION.

OPINION.

The above entitled matter is a joint application of the Northern Oil Company to sell and the Kern Sunset Oil Company to purchase a

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certain water system serving water for industrial purposes in and about the town of Maricopa, Kern County, California.

A public hearing in this matter was held in Bakersfield before Examiner Satterwhite, of which all consumers were notified and given an opportunity to be present and be heard.

It appears that the Kern Sunset Oil Company leased to Charles A. Son on September 14, 1908, for a term of years ending July 1, 1928, the northeast quarter of the northeast quarter of section 12, township 11 north, range 24 west, S. B. M., together with certain specified rights and privileges which included the right to drill for oil and water and to construct pipe lines and other necessary structures.

In consideration of the above mentioned lease and privileges, the lessee, Charles A. Son, among other requirements, was to drill and complete and put into production in paying quantities not less than two wells in each year, of a depth of eighteen hundred feet unless oil in paying quantities was discovered at a lesser depth, until eight wells had been finished and brought into production. Also on or before the fifteenth day of each and every month there was to be paid to the Kern Sunset Oil Company a royalty amounting to one-fifth part of the gross income derived from operating the property. Upon the violation of any of the covenants of the lease all tools, machinery, structures and equipment on the leased property were to revert to the Kern Sunset Oil Company.

On September 17, 1908, Charles A. Son assigned to the Northern Oil Company all of his right, title and interest in this lease.

The Northern Oil Company commenced drilling operations in accordance with the terms of the lease, but instead of obtaining oil, encountered water in abundant quantity and, by agreement, it was decided to install pipe lines for the distribution and sale of water for industrial purposes.

It was brought out at the hearing that the company was able to pay royalties and make a profit from the sale of water until about 1918. Business dropped off in 1919, and in October, 1920, the company was unable to pay the royalty due for that month, and this condition continued until September 1, 1921, when the Kern Sunset Oil Company took possession of the plant and equipment as provided by the terms of the lease, and has been operating the system since that time, supplying all consumers. The pipe lines not on the property covered by the lease did not revert to the Kern Sunset Oil Company, so an agreement to sell these lines was entered into by the two companies, subject to the approval of this Commission, whereby the Northern Oil Company is to receive $12,000 for all lines and equipment not on the land under lease, payments to be made in the following manner:

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First: On September 1, 1921, a sum equivalent to all royalties due the Kern Sunset Oil Company on that date, amounting to $4,667.36.

Second: The balance in monthly installments of four hundred ($400) dollars each, commencing on the first day of March, 1922, with interest on deferred payments at the rate of six (6%) per cent per annum from March 1, 1922, until the full amount of the purchase price be paid.

It appears that all payments on the purchase price of $12,000 will have been completed on or before September 1, 1923. As the Kern Sunset Oil Company intends to continue to operate the plant and supply all consumers formerly served by the Northern Oil Company, it appears to be for the best interests of all concerned that this transfer be authorized.

ORDER.

Application having been made to the Railroad Commission, as entitled above, for authority to transfer public utility property, a public hearing having been held thereon and the Railroad Commission being of the opinion that the application should be granted;

It is hereby ordered, that the Northern Oil Company be and it is hereby authorized to sell, and the Kern Sunset Oil Company be and it is hereby authorized to purchase all the water properties formerly owned or operated by the Northern Oil Company, upon the conditions set forth in the agreement of sale, attached to and made a part of the above application and designated as "Exhibit B."

It is hereby further ordered, that the authority herein granted shall be upon the following conditions, and not otherwise:

1. The authority herein granted shall apply only to such transfer as shall have been completed on or before December 1, 1923.

2. The consideration given for the transfer of said system shall not be urged before this Commission or any other public body as a finding of the value of said property for rate fixing or any purpose other than the transfer herein authorized.

3. On or before December 31, 1923, the Kern Sunset Oil Company shall file with this Commission a certified copy of the final instrument of conveyance covering this transaction.

Dated at San Francisco, California, this twenty-third day of November, 1922.

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DECISION No. 11267.

IN THE MATTER OF THE APPLICATION OF CORNELIUS J. HORGAN, FOR A CERTIFICATE TO OPERATE A PUBLIC UTILITY WATER SYSTEM TO SERVE ON THE TRACT KNOWN AS "HIGHCROFT," NEAR HILTON, SONOMA COUNTY, CALIFORNIA, AND AUTHORITY TO ESTABLISH AN EQUITABLE RATE FOR THE SERVICE RENDERED.

———

Application No. 8263.

Decided November 23, 1922.

Cornelius J. Horgan, in propria persona.

BY THE COMMISSION.

OPINION.

Cornelius J. Horgan, applicant in the above entitled proceeding, asks in effect that this Commission make its order granting him a certificate of public convenience and necessity to operate a water system as a public utility. The system in question supplies consumers in the tract known as "Highcroft," located near Hilton, Sonoma County, California. He also asks authority to establish an equitable rate for the service rendered.

A public hearing was held in this application before Examiner Satterwhite, at San Francisco, of which due notice was published in a Sonoma County newspaper of general circulation, and interested parties were given an opportunity to appear and be heard.

The evidence shows that the system was installed in 1915 to serve water for domestic purposes in the tract known as "Highcroft"; that applicant came into possession of the unsold property of the tract, which consisted of the greater portion thereof, together with the water system installed therein, on July 14, 1922; that subsequent to that time eight consumers have been served at a rate of $7.50 per annum, in addition to supplying domestic service to applicant's own property; that to provide for future demands applicant is now installing a larger tank and improving the distribution system, with the intention of providing public utility service.

No other source of water supply is available to the residents of "Highcroft."

The system as it exists is shown by report submitted by Mr. J. G. Hunter, of the Commission's engineering staff, to consist of a dug well 64 inches in diameter and 43 feet deep, from which water is pumped by a deep-well cylinder pump driven by a 2-horsepower electric motor, into a 2300-gallon redwood tank, from which extend approximately 2600 feet of distribution mains ranging in diameter from 2 inches to one-half inch. No meters have yet been installed upon

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the service connections. Mr. Hunter estimates that the system at this time represents an investment of $923.

No objection to the granting of this application was offered.

From the evidence it appears that public convenience and necessity required that applicant be authorized to operate his water system as a public utility for the service of water to the residents of "Highcroft."

ORDER.

Cornelius J. Horgan having made application as entitled above, a public hearing having been held thereon and the matter having been submitted:

The Railroad Commission of the State of California hereby declares that present and future public convenience and necessity require, and will require Cornelius J. Horgan to operate a water system for the purpose of supplying water for domestic purposes to consumers on the tract known as "Highcroft"; and, therefore,

It is hereby ordered, that Cornelius J. Horgan be and he is hereby authorized to operate a water system as a public utility, supplying water to consumers on the tract known as "Highcroft," located near Hilton, Sonoma County, California, in the manner prescribed by the Public Utilities Act of the State of California.

It is hereby further ordered, that Cornelius J. Horgan be and he is hereby directed to file with this Commission within twenty (20) days of the date of this order a schedule of the rates to be charged for all water delivered to his consumers.

It is hereby further ordered, that Cornelius J. Horgan be and he is hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with his consumers.

Dated at San Francisco, California, this twenty-third day of November, 1922.

DECISION No. 11268.

A. L. RICHARDSON

vs.

FRANK McKELVERRY AND STEPHEN SALLES.

Case No. 1788.

Decided November 23, 1922.

AUTO STAGES—RENT CAR—TAXI SERVICE.—Terming a specific automobile service as a rent car or taxi service does not in itself make it so. It is the actual

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operation and the service held out by the operator to the general public which must be considered in determining whether or not operation is in violation of the provisions of the Automobile Stage and Truck Transportation Act.

AUTO STAGES—TIME SCHEDULE—PUBLISHED RATES—EFFECT ON STATUS.—The Commission has held on numerous occasions that the fact that an operator has no established time schedule for arrival or departure, nor a published or fixed schedule of rates under which he operates, is not sufficient ground for determining that he is not engaged in the business of transportation of persons or property over a regular route or between fixed termini as defined in subsection "E" of section 1, of chapter 213, Statutes of 1917, as amended.

AUTO STAGES—CLAIM OF POOR SERVICE—NO JUSTIFICATION FOR ILLEGAL OPERATION.—The Commission holds that the contention that an existing operator holding a certificate, has not been rendering efficient service or properly meeting traffic requirements, in no way excuses illegal operation. The remedy in such a case, it is pointed out, is a complaint to the Commission or an application for a certificate for an additional service.

Harry A. Encell, by James A. Miller, for Complainant.
J. D. Elliott, for Defendants.

BY THE COMMISSION.

OPINION.

This is a proceeding filed on July 25, 1922, in which complanant, Richardson, alleges that defendants, McKelverry and Salles, have been operating automobile stages transporting passengers for compensation between the Fourteen Mile House and Sacramento and Sacramento and the Fourteen Mile House, and between the Fourteen Mile House and Placerville, and have been making daily trips over the route over which he holds a certificate, transporting passengers for compensation in violation of the provisions of chapter 213, Statutes of 1917, as amended.

A public hearing in the above entitled proceeding was held before Examiner Eddy on September 19, 1922, at Placerville at which time the matter was submitted and is now ready for decision.

The complainant called four witnesses in support of his complaint, all of whom testified to the effect that on frequent occasions they had observed automobiles operated by defendants transporting passengers between the points alleged in the complaint.

It would appear that Western States Gas and Electric Company operates a number of construction camps adjacent to the highway running between Placerville and Lake Tahoe; that quite a number of men are employed at these construction camps, some of which are situated some distance from the main highway; that there is a considerable turnover in this class of labor and that men are leaving and arriving more or less daily; that defendants have been in the habit of calling at the camps either by telephone call or verbal requests, picking up passengers and transporting them to either Placerville or Sacramento. None of the witnesses called knew of their own knowledge of any specific instance in which each of the passengers paid an individual fare for their transportation.

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Defendants testifying in their own behalf claimed that they were merely operating a rent car service and agreed to transport one or more passengers between any of the construction camps of the Western States Gas and Electric Company and Placerville or Sacramento at a fixed sum for the trip and that at no time had they collected individual fares from the passengers transported on any specific trip, nor were they holding themselves out as being engaged in the business of transporting passengers for compensation over a regular route or between fixed termini, but had on other occasions transported passengers over entirely separate and distinct routes; that no regular schedule was maintained nor did they have any fixed rate per passenger, the rate being based upon whatever reasonable amount an individual or group of individuals might be willing to pay for transportation between two specified points.

The evidence itself clearly shows that on frequent occasions both defendants had operated automobiles transporting passengers for compensation between Sacramento, Placerville, Fourteen Mile House and construction camps Nos. A, B, K and R of the Western States Gas and Electric Company.

Chapter 213, Statutes of 1917, as amended, contains no reference in section 1 thereof that a transportation company as defined in subsection *c* must operate upon a fixed time schedule. Furthermore, subsection *c* of section 1 defines "between fixed termini or over a regular route," the termini or route between or over which any transportation company usually or ordinarily operates any automobile * * * *even though there may be departures from said termini or route, whether such departures be periodic or irregular.*

Terming a specific automobile service as a rent car or taxi service does not in itself make it so. It is the actual operation and the service held out by the operator to the general public which must be considered in determining whether or not operation is in violation of the provisions of the automobile stage and truck transportation act or whether it comes within the rent car or taxi cab class. In *Young* vs. *Stout*, 19 Cal. Railroad Commission Reports, 877, the Commission held that an individual operating a so-called rent car or taxi service, whose business between two fixed termini had developed to the extent where he was operating a frequent and what might be termed a regular service, although no specified time schedule was maintained, he was operating in violation of the provisions of chapter 213, Statutes of 1917, as amended, and although there may have been no intention to violate the state law, the natural growth or development of the business had placed such operation in a class where it could only be considered as

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a transportation company as defined in section 1, subsection *c* of the above numbered statutory enactment.

The Commission has further held on numerous occasions that the fact that an operator has no established time schedule for arrival or departures, nor a published or fixed schedule of rates under which he operates, is not sufficient ground for determining that he is not engaged in the business of transportation of persons or property over a regular route or between fixed termini as defined in subsection *c* of section 1, of chapter 213, Statutes of 1917, as amended.

While both defendants in this proceeding may have been under the impression that they were operating a so-called rent car service, and may have engaged at times in what would be held to be the operation of a rent car service, we are of the opinion and find as a fact that in the present instance, they have been actually holding themselves out as being engaged in the business of transportation of persons for compensation and have been so operating between the fixed termini of construction camps of the Western States Gas and Electric Company, Fourteen Mile House, Placerville and Sacramento. Furthermore, the contention that an existing operator, holding a certificate authorizing operation of passenger stage service over a particular route has not been rendering efficient service nor properly meeting traffic requirements in no way effects the status of defendants in this proceeding, their remedy in such case being either the filing of a formal complaint to compel the existing carrier to improve his service or the filing of an application in their own behalf for a certificate permitting them to inaugurate a service which would meet traffic requirements.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised, and basing its order on the finding of fact contained in the opinion preceding this order;

It is hereby ordered, that Frank McKelverry and Stephen Salles be and they hereby are directed to forthwith discontinue the operation of automobiles or automobile trucks for the transportation of persons for compensation between camps A, B, K, and R, Fourteen Mile House, Placerville and Sacramento, or any points intermediate thereto.

It is hereby further ordered, that the secretary of the Railroad Commission shall furnish the district attorneys of El Dorado County and Sacramento County with a certified copy of the within order.

Dated at San Francisco, California, this twenty-third day of November, 1922.

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DECISION No. 11269.

HIGHLAND PARK CHAMBER OF COMMERCE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1748.

HIGHLAND PARK CHAMBER OF COMMERCE

vs.

LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 1749.

Decided November 23, 1922.

D. M. Cuthbert and *G. J. Burns*, for Complainant.
R. H. Tuttle and *E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railway Company.
F. E. Pettit, Jr., for Los Angeles and Salt Lake Railroad Company.
Milton Bryan and *H. Z. Osborne, Jr.*, for City of Los Angeles.

BY THE COMMISSION.

OPINION.

In these proceedings the chamber of commerce of Highland Park asks that certain grade crossings of public streets over the tracks of the defendants be provided with automatic flagmen and that the bells or gongs now installed at certain grade crossings be removed.

A public hearing was held on these matters in Los Angeles September 12, 1922, before Examiner Williams. No objection was made to joint hearing and decision.

The Highland Park Chamber of Commerce, complainant herein, is a voluntary association of individuals residing in that portion of the city of Los Angeles, commonly known as the Highland Park District.

Complainant asks in Case No. 1748, that the automatic bells or gongs now located at the crossings of West Avenue 54, West Avenue 59, West Avenue 60 or at any other crossings herein mentioned, be removed or silenced and that an automatic flagman (sometimes called a wig wag) be installed and maintained at the crossings of West Avenue 51, West Avenue 53, West Avenue 55, West Avenue 58, West Avenue 60 and West Avenue 61, respectively, over the tracks of The Atchison, Topeka and Santa Fe Railway.

Complainant also asks in Case No. 1749, that the automatic gongs or bells now installed at the grade crossings of East Avenue 43, East Avenue 52 and Arroyo Glen, respectively, over the tracks of the Los Angeles and Salt Lake Railroad be removed or silenced and that an automatic flagman be installed at the crossings of East Avenue 43, East Avenue 52,

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East Avenue 54, East Avenue 55, East Avenue 57, Hayes Avenue, East Avenue 60, Echo Street, East Avenue 61, Arroyo Glen, Avenue 63 and Avenue 64, respectively, over the tracks of the Los Angeles and Salt Lake Railroad.

The defendant railroads, in answer to these complaints, both deny that any of the above named crossings are dangerous or require any protection other than that now provided at the several crossings.

Although the city of Los Angeles did not introduce any evidence at the hearing it was stipulated that the city should have the privilege of filing any exhibit desired within ten days, complainant and defendants reserving the right to cross-examine any such exhibit. No such exhibit has been filed.

The district known as Highland Park extends along the right bank of the Arroyo Seco in the city of Los Angeles in a northerly and southerly direction from Avenue 40 to Avenue 66. The tracks of both the Salt Lake and Santa Fe extend also in a northerly and southerly direction through practically the entire length of the district. The track of the Santa Fe is its main line between Los Angeles and San Bernardino via Pasadena and there is operated over it approximately ten passenger trains daily and from three to ten freight trains daily. This track through Highland Park is on a grade of from one to two per cent ascending northerly. The track of the Los Angeles and Salt Lake is a branch line running from Los Angeles to Pasadena and there are operated over it four passenger trains and four freight trains daily.

The territory traversed by each of the railroads is essentially residential. The traffic on the various streets varies considerably. The hazard of accidents at the various crossings, is in most instances considerably augmented by the fact that the view afforded vehicles of approaching trains at many of the crossings is seriously obstructed.

Considerable testimony was introduced showing conditions at several crossings covered in this complaint and from this evidence it appears that certain steps should be taken to safeguard the public in this district.

Each of the crossings involved in these proceedings will be briefly discussed.

Atchison, Topeka and Santa Fe Railway Crossings (Case No. 1748).

West Avenue 51.

The traffic over this crossing is light, the view for the most part is not seriously obstructed, and the street is essentially local in character. The necessity for additional protection at this crossing has not been demonstrated.

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West Avenue 53.

Here the view is very seriously obstructed and there is a moderate amount of highway traffic. It therefore appears that the installation of an automatic flagman is justified at this crossing.

West Avenue 54.

This crossing is in a closely built up residential territory and the operation of an automatic gong in addition to the automatic flagman does not seem to be justified and it should therefore be silenced.

West Avenue 55.

Since the view here is seriously obstructed in all directions and there is a moderate amount of vehicular traffic over this crossing, an automatic flagman should be installed for its protection.

West Avenue 58.

The view at this crossing is quite seriously obstructed in at least two of the four directions and there is a moderate amount of traffic over it. An automatic flagman should be installed for the protection of this crossing.

West Avenue 59.

This crossing is in a closely built up residential territory and the operation of an automatic gong in addition to the automatic flagman does not seem to be justified and it should therefore be silenced.

West Avenue 60.

This crossing, when approached from the west, has its view of trains approaching from the north entirely shut off by an adjacent lumber yard. It is protected by a gong type bell but this protection does not appear to be adequate. Although the traffic over this crossing is relatively light, there have been serious accidents at this location and it appears that the automatic bell should be replaced by an automatic flagman and the triangular type crossing sign replaced by a standard X-shaped crossing sign.

West Avenue 61.

Although the view here is somewhat obstructed in at least two directions and the amount of vehicular traffic is moderately heavy, the crossing is so located that a reasonably prudent driver of a vehicle can obtain a warning of the approach of a train by virtue of the operation of the warning bell and gates protecting the crossing of Pasadena avenue immediately adjacent, and under these circumstances the installation

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of an automatic flagman at this crossing does not appear to be justified at this time.

Los Angeles and Salt Lake Railroad Crossings (Case No. 1749).

East Avenue 43.

This crossing is now protected by a gong type bell and carries a fairly heavy traffic. The view is quite seriously obstructed in nearly all directions and under these circumstances it appears that the present automatic bell should be replaced with an automatic flagman.

East Avenue 52.

The view at this crossing is also seriously obstructed in all directions and the street approaches the crossing from the west on a descending grade of about ten per cent (10%); however, due to the relatively light vehicular traffic over this crossing it appears that the time has not yet arrived when an automatic flagman should be installed. The crossing is at present protected by an automatic bell, and this protection should in this case be retained until such time as an automatic flagman is justified.

East Avenue 54.

This crossing is at the foot of a very steep grade descending from the west and the crossing itself is not in line with the street on either side of the railroad. The actual use made of this crossing by the public is very slight and it appears clear that it would not seriously interfere with public convenience were this crossing closed, but that on the other hand the closing of this crossing would be in the interest of public safety. This crossing should therefore be closed to vehicular traffic.

East Avenue 55.

The view at this crossing is only partially obstructed and the traffic is relatively light but upon the closing of the crossing at East Avenue 54, additional traffic will be diverted to this crossing and under these circumstances an automatic flagman would appear to be justified at this location. The city also should arrange to install proper advance warning signs as provided for in section 22 of the Motor Vehicle Act.

East Avenue 57.

The view in at least two directions is rather seriously obstructed and traffic is moderate and the installation of an automatic flagman appears to be justified.

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Hayes Avenue.

The view of this crossing is very seriously obstructed but the crossing is so located that it is not a vital public necessity, all the territory being served by it having access to Avenue 60. The Hayes avenue crossing should therefore be closed to vehicular traffic.

East Avenue 60.

The view at this crossing is seriously obstructed and the traffic over this crossing is comparatively heavy, therefore the installation of an automatic flagman at this location appears to be justified.

Echo Street.

This is a crossing having an obstructed view and there appears to be practically no public necessity for maintaining this crossing. The public does, in fact, make but very little use of it and ready access may be had to territory on each side of this crossing by means of the adjacent streets, East Avenue 60 and East Avenue 61. Under these circumstances this crossing should be closed to vehicular traffic.

East Avenue 61.

This crossing has some obstruction to view but carries a relatively light traffic. It is immediately adjacent to the grade crossing of the Los Angeles and Salt Lake Railroad's track over the Atchison, Topeka and Santa Fe track, which track crossing is protected during certain hours by a crossing flagman, whose duty it is to control the movements of Salt Lake trains across the Santa Fe track. It appears that it would be entirely feasible for this flagman to also act as flagman for the highway traffic, and this should be so arranged. During those hours that this flagman is not on duty, the members of the train crew of the Salt Lake trains should be required to flag the highway traffic on East Avenue 61.

Arroyo Glen.

The traffic over this crossing is relatively light and the view practically unobstructed. The crossing is at the top of a steep grade ascending from the east and is at present protected by an automatic bell. It does not appear that any change is justified in the protection of this crossing for the present. It is probable that the need for the installation of an automatic flagman at this location could be indefinitely postponed, should the railroad company elect to stop its trains before proceeding over the South Pasadena line of the Pacific Electric which it crosses immediately adjacent to Arroyo Glen. Such a measure would not only increase the safety of operation over the highway but also

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would make it possible for the Pacific Electric to eliminate some delay at this point.

Avenue 63 and Avenue 64.

The railroad across both of these streets is laid along Pasadena avenue, but Pasadena avenue is the main thoroughfare for vehicular traffic and all prudent vehicular drivers coming into or intersecting Pasadena avenue will naturally be driving with caution and therefore are in a position to observe the approach of trains in sufficient time to avoid an accident. The trains operating on Pasadena avenue at slow speeds actually stop before crossing the Pacific Electric tracks at Avenue 64. It therefore does not appear that any additional protection is required at this time at the crossings of either Avenue 63 or Avenue 64.

The cost of providing the protection above indicated at the Santa Fe crossings is estimated at about $2,500, and a similar amount would probably be required to provide the protection indicated on the Salt Lake crossings.

It has been indicated above that the crossings of East Avenue 54, Hayes avenue and Echo street, respectively, over the track of the Salt Lake should be closed. This conclusion is based largely upon the testimony of the Commission's engineer, but since the representative of the city of Los Angeles was not present at the time this testimony was given, the attitude of the city is not known. Under this circumstance it is suggested that either the complainant or the railroad company or both together apply to the city of Los Angeles for the vacation and closing either temporary or permanent of these crossings. This action, together with the provision of protection to be ordered, would seem to afford adequate relief for the Highland Park district.

ORDER.

A public hearing having been held in the above entitled proceedings, the Commission being apprised of the facts, and the matter being under submission and ready for decision;

It is hereby ordered, that The Atchison, Topeka and Santa Fe Railway Company shall at its sole expense install and maintain an automatic flagman for the protection of each of the following crossings in the city of Los Angeles over its tracks: West Avenue 53, West Avenue 55, West Avenue 58 and West Avenue 60; said automatic flagmen to be of a type and installed in accordance with plans or data approved by the Commission. The installation of said automatic flagmen shall be made within ninety (90) days from the date of this order and the Commission shall be notified, in writing, of the completion of their installation within thirty (30) days thereafter.

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It is hereby further ordered, that The Atchison, Topeka and Santa Fe Railway Company silence or remove the automatic alarm bells at the crossing in the city of Los Angeles of its track at each of the following streets: West Avenue 54, West Avenue 59 and West Avenue 60.

It is hereby further ordered, that The Atchison, Topeka and Santa Fe Railroad Company install a standard crossing sign for protection of the crossing in the city of Los Angeles of its track with West Avenue 60.

It is hereby further ordered, that the Los Angeles and Salt Lake Railroad Company shall at its sole expense install and maintain an automatic flagman for the protection of each of the following crossings in the city of Los Angeles over its track: East Avenue 43, East Avenue 55, East Avenue 57 and East Avenue 60; said automatic flagmen to be of a type and installed in accordance with plans or data approved by the Commission. The installation of said automatic flagmen shall be made within ninety (90) days from the date of this order and the Commission shall be notified, in writing, of the completion of their installation within thirty (30) days thereafter, except, however, that the installation of the automatic flagman herein ordered for the protection of the crossing of East Avenue 55 may be deferred until after the crossing of East Avenue 54 shall have been legally abandoned and closed.

It is hereby further ordered, that the Los Angeles and Salt Lake Railroad Company shall silence or remove the automatic alarm bell located at the crossing in the city of Los Angeles of its track with East Avenue 43.

It is hereby further ordered, that the Los Angeles and Salt Lake Railroad Company shall operate trains across East Avenue 61 in the city of Los Angeles only after human flagman protection is given at this crossing preceding each train movement.

Dated at San Francisco, California, this twenty-third day of November, 1922.

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DECISION No. 11281.

IN THE MATTER OF THE APPLICATION OF VERDUGO HILLS TRANSPORTATION COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF TWENTY-FIVE THOUSAND DOLLARS OF COMMON CAPITAL STOCK.

Application No. 8363.

Decided November 27, 1922.

N. C. Folsom, for Applicant.

BY THE COMMISSION.

OPINION.

Verdugo Hills Transportation Company asks permission to issue and sell, at not less than 80 per cent of its par value, $25,000 of common capital stock and use the proceeds to pay indebtedness incurred on account of the purchase of automobile equipment and acquire additional automobile equipment. A hearing was had on this matter before Examiner Williams in Los Angeles on November 17.

Applicant is engaged in the business of transporting passengers and express packages for compensation by auto stage between Los Angeles and Sunland and intermediate points.

By Decision No. 10455, dated May 13, 1922, the Railroad Commission authorized Verdugo Hills Transportation Company to issue to A. J. Richardson $30,980 par value of common stock in payment for automobile equipment and other properties.

It is of record that applicant has recently purchased two new Republic truck chassis and equipped them with bus bodies, each having a seating capacity of 21 including the driver. If seats are placed in the aisle, the seating capacity of each car is increased to thirty. Applicant asks permission to use $8,500 of the proceeds from the sale of the stock to pay for the two auto stages. It further requests permission to use $11,500 of the proceeds to acquire additional equipment. Inasmuch as the Commission has not been furnished with accurate information showing the cost of the additional equipment, the order herein will provide that the $11,500 may be expended only for such purposes as the Railroad Commission may hereafter authorize.

ORDER.

The Commission has considered applicant's request and believes that it is necessary for applicant to purchase additional equipment and that this application should be granted as herein provided; therefore

It is hereby ordered, that the Verdugo Hills Transportation Company be and it is hereby authorized to issue and sell on or before April 1, 1923, for cash, at not less than 80 per cent of its par value net to applicant, $25,000 par value of common stock.

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The authority herein granted is subject to further conditions as follows:

1. Of the proceeds realized from the sale of the stock herein authorized, applicant may use not exceeding $8,500 for the purpose of paying the notes and accounts payable set forth in "Exhibit B" filed in this proceeding.

2. The remainder of the proceeds realized from the sale of the stock, amounting to at least $11,500, may be expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

3. Verdugo Hills Transportation Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this twenty-seventh day of November, 1922.

DECISION No. 11291.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, TO OPERATE MOTOR-TRUCK SERVICE FOR TRANSPORTATION OF CERTAIN PERSONAL PROPERTY BETWEEN SAN FRANCISCO AND LOS ANGELES, AND LOS ANGELES AND SAN FRANCISCO, AND INTERMEDIATE POINTS, VIA THE SO-CALLED COAST ROUTE.

Application No. 7565.

Decided November 29, 1922.

Milton Marks, for Applicant.
L. N. Bradshaw, for Southern Pacific Company, Protestant.
Edward Stern, for American Railway Express Company, Protestant.
A. F. Hunt and *E. T. Lucey*, for Atchison, Topeka and Santa Fe Railway, Protestant.
Durley and Downes, by *W. M. Durley*, for Los Angeles and Santa Barbara Motor Express Company, Protestant.
S. V. Wright, for E. L. McConnel and R. J. Hearne, Protestants.

BY THE COMMISSION.

OPINION.

California Highway Express, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck line as a common carrier of certain personal property between Los Angeles and San Francisco and intermediate points, via the so-called "Coast Route."

A public hearing on this application was conducted by Examiner

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Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant proposes to establish a service for the transportation of household, office and store furniture, fixtures and equipment, household goods, baggage, personal effects and pianos between San Francisco and Los Angeles and intermediate points, excepting, however, the carriage of such articles between San Francisco and San Jose and points intermediate between such terminals, and between Los Angeles and Santa Barbara and points intermediate between such terminals. Applicant also requests authority to serve all territory located within twenty-five miles of the main "Coast Route" highway between San Francisco and Los Angeles.

The rates proposed by applicant are set forth, together with the rules and regulations governing same, on a schedule marked Exhibit "A" and attached to the application herein and as amended by a supplemental schedule filed at the hearing; the time schedule to be observed providing for one trip each week in each direction, using as equipment two enclosed vans, each of 3½ tons capacity; one stake body Giant truck of 2½ tons capacity; one Chevrolet stake body truck of 1 ton capacity; one Garford furniture truck of 2 tons capacity; and one Garford furniture truck of 1½ tons capacity. Applicant proposes to serve the following intermediate points between Los Angeles and San Francisco: Santa Barbara, Goleta, Las Cruces, Los Alamos, Santa Maria, Arroyo Grande, San Luis Obispo, Santa Margarita, Templeton, Paso Robles, San Miguel, Bradley, San Ardo, San Lucas, King City, Soledad, Gonzales, Salinas, San Juan, Gilroy, Morgan Hill, San Jose, Mountain View, Palo Alto, Redwood City, San Mateo, and to serve Oakland, Berkeley and Alameda as points beyond the terminus of San Francisco.

Applicant relies as justification for the granting of the application upon an alleged public demand for the character of transportation herein proposed and the fact that no other carrier is equipped adequately and properly to transport uncrated furniture, household and office, personal effects and pianos.

Witnesses for applicant testified as to the demand for transportation between Los Angeles and San Francisco via the so-called "Coast Route" similar to that now rendered by applicant via the "Valley Route" under the authority of a certificate heretofore granted by this Commission. The demand, however, appears to be for transportation from intermediate points to either San Francisco or Los Angeles, or for shipments originating at such points and destined to an intermediate point. We are not convinced from the evidence herein that any substantial need exists for the authorization of another through

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service between Los Angeles and San Francisco, and that for through service the applicant already possesses operative rights via the "Valley Route." Neither do we find from the evidence any justification for the serving of terrritory located as far distant as twenty-five miles from the main highway between Los Angeles and San Francisco, and in our opinion a distance of five miles from the main highway is a reasonable distance in which the proposed service should be given by the applicant herein.

By stipulation at the hearing the application in so far as the intermediate communities of Oxnard and Calabasas were proposed to be served was amended and applicant waived any right to serve such points.

By written stipulation with R. J. Hearne and E. L. McConnel, protestants, applicant agreed to a condition in the order granting any portion of this application waiving the right to handle any local intermediate business between San Miguel and Orcutt and adjacent territory; also agreed that in the event such stipulation was hereafter violated by applicant to forfeit to protestant, Hearne, the actual amount of compensation received for any goods transported between San Luis Obispo and Arroyo Grande; and to forfeit to protestant, McConnel, the actual amount of compensation received for any goods transported between San Miguel and Orcutt.

The granting of this application was protested by Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, American Railway Express Company, Los Angeles and Santa Barbara Motor Express Company, E. L. McConnel and Raymond J. Hearne. The protests of McConnel and Hearne were withdrawn following the stipulations made at the hearing and referred to above. Exhibits were received from protestants, Southern Pacific Company and American Railway Express, indicating comparison of rates with those proposed by the applicant and outlining service available by the scheduled service of such protestants.

A witness for protestant, Los Angeles and Santa Barbara Motor Express, testified as to the equipment owned and service rendered by such protestant carrier and as to the ability of such carrier to handle all of the class of shipments for which authority is sought by applicant between Los Angeles and Santa Barbara and intermediate points. The application herein eliminates the intermediate business between Los Angeles and Santa Barbara and the evidence justifies the exclusion of Santa Barbara, the existing authorized motor freight carrier being able to satisfactorily render such service as may be required by the public wishing to have their shipments handled by motor truck.

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After careful consideration of all the evidence and the exhibits in this proceeding, we are of the opinion that public convenience and necessity require a partial granting of the operative right herein sought.

The rate schedule proposed by applicant and as amended at the hearing shows Oakland, Alameda and Berkeley as terminal points. No evidence justifying the including of such points was offered by applicant and they will be eliminated as points authorized to be served.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised:

The Railroad Commission hereby declares that public convenience and necessity require the operation by California Highway Express, a corporation, of an automobile truck line as a common carrier of household, office and store furniture and fixtures, household goods, trunks, personal effects and pianos between Los Angeles and San Francisco via the state highway commonly designated as the "Coast Route" and for a distance of five miles on each side of the main highway over regularly accepted roads joining said main highway. Provided, however, that this declaration does not authorize any through service between Los Angeles and San Francisco, or the rendering of service to or from the cities of Oakland, Berkeley and Alameda; or the operation of applicant from Los Angeles to Santa Barbara and intermediate points including Santa Barbara; or local service between San Miguel and Orcutt and intermediate and adjacent territory; or local service between San Francisco and San Jose and intermediate points and adjacent territory including San Jose.

It is hereby ordered, that applicant, California Highway Express, a corporation, file with the Railroad Commission, within 15 days from the date of this order, a written acceptance of the terms of this order, such acceptance to state the date upon which the operation herein authorized shall commence, such date to be not less than 30 days from the date of said acceptance.

Applicant, California Highway Express, a corporation, is hereby required to file with the Railroad Commission, within 30 days from the date of this order, in conformity with the provisions of the Commission's General Order No. 51 and other regulations, its tariff of rates, rules and regulations, and time schedules covering the proposed operation over the route as herein authorized.

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The basic rates herein authorized for the carriage of commodities herein authorized are as follows:

Between San Francisco and	Rate per cwt.
Morgan Hill	$1 55
Gilroy	1 60
San Juan	1 70
Salinas	1 85
Gonzales	2 00
Soledad	2 05
King City	2 20
San Lucas	2 25
San Ardo	2 35
Bradley	2 45
San Miguel	2 55
Paso Robles	2 60
Templeton	2 65
Santa Margarita	2 75
San Luis Obispo	2 85
Arroyo Grande	3 00
Santa Maria	3 15
Los Alamos	3 35
Las Cruces	3 55
Goleta	3 65
Santa Barbara	3 70
Ventura	3 95
Points between Ventura and Los Angeles, but not including Los Angeles	4 40

Between Los Angeles and	Rate per cwt.
Goleta	$1 80
Las Cruces	1 90
Los Alamos	2 10
Santa Maria	2 30
Arroyo Grande	2 45
San Luis Obispo	2 60
Santa Margarita	2 70
Templeton	2 80
Paso Robles	2 85
San Miguel	2 90
Bradley	3 00
San Ardo	3 10
San Lucas	3 20
King City	3 25
Soledad	3 40
Gonzales	3 45
Salinas	3 60
San Juan	3 75
Gilroy	3 85
Morgan Hill	3 90
San Jose	4 05
Mountain View	4 15
Palo Alto	4 20
Redwood City	4 25
San Mateo	4 30
San Francisco	4 40

The rules and regulations governing the application of the above rates are to be in accordance with those filed as an exhibit with the application herein and as amended by supplemental exhibits filed at the hearing.

The rights and privileges herein authorized may not be sold, leased, transferred, assigned or hypothecated unless the approval of the Railroad Commission by its formal order for such sale, lease, transfer, assignment or hypothecation shall have first been secured.

No vehicle may be operated by the applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-ninth day of November, 1922.

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DECISION No. 11293.

IN THE MATTER OF THE APPLICATION OF L. R. KAGERISE, OWNER OF KEYSTONE EXPRESS, FOR AN ORDER GRANTING PERMISSION TO ESTABLISH CERTAIN CHANGES IN RATES, CLASSIFICATION, RULES AND REGULATIONS, RESULTING IN BOTH INCREASES AND REDUCTIONS IN RATES FOR AUTO TRUCK TRANSPORTATION SERVICE RENDERED BETWEEN LOS ANGELES, POMONA, ONTARIO, AZUSA, COVINA, UPLAND AND INTERMEDIATE POINTS.

Application No. 8035.

Decided November 29, 1922.

L. R. Kagerise and *Lewis A. Monroe*, for Keystone Express.

BY THE COMMISSION.

OPINION.

This is a proceeding in which L. R. Kagerise, owner of Keystone Express, petitioned the Railroad Commission for permission to establish certain changes in rates, classification, rules and regulations, resulting in both increases and decreases in rates for auto truck transportation of freight between Los Angeles, Pomona, Ontario, Azusa, Covina, Upland and intermediate points.

The applicant in this proceeding did not offer any evidence as to his operating revenues and expenses. The only report filed by the Keystone Express with the Railroad Commission was identified by the applicant and that report shows gross revenue for the year 1921 as $65,780.10 and operating expenses, including depreciation, $60,792.45, showing a net operating income, excluding an item of $1,813 interest, which added to the $4,987.65 net revenue, said interest not being chargeable to operating expenses, shows a net revenue of $6,800.65 for present earnings on the value of the property used and useful in public service operated by the applicant, or approximately 30 per cent. The applicant, however, testified that his present operating expenses are higher than heretofore and that certain additions have been made to his equipment, but the only evidence before the Commission is that shown in the application as Exhibits A and B, which evidence is insufficient to warrant the Commission granting the application.

The Commission believes this application should be dismissed without prejudice.

ORDER.

It is hereby ordered, that this application should be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of November, 1922.

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DECISION No. 11303.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case 1698.

Decided December 1, 1922.

BY THE COMMISSION.

SIXTEENTH SUPPLEMENTAL ORDER.
CITY OF LODI.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of the city of Lodi and has found a total of 1397 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished the city of Lodi or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for the city of Lodi to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before April 1, 1923;

It is hereby ordered, that the time during which the city of Lodi may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to April 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911" upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before April 1, 1923, the city of Lodi complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since

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October 22, 1911'' upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this first day of December, 1922.

DECISION No. 11304.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 1, 1922.

BY THE COMMISSION.

SEVENTEENTH SUPPLEMENTAL ORDER.
CITY OF SANTA CLARA.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced, and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of the city of Santa Clara and has found a total of 473 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished the city of Santa Clara or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for the city of Santa Clara to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before April 1, 1923;

It is hereby ordered, that the time during which the city of Santa Clara may reconstruct its overhead electric lines to conform to the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to April 1, 1923, provided that as to certain infractions listed as ''Technical, prior to October 22, 1911'' upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

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It is hereby further ordered, that before April 1, 1923, the city of Santa Clara complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911" upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this first day of December, 1922.

DECISION No. 11313.

IN THE MATTER OF THE APPLICATION OF THE MIDWAY GAS COMPANY, FOR AN ORDER CANCELING SCHEDULE NO. A-5 OF SCHEDULE OF RATES OF THE MIDWAY GAS COMPANY, AND APPROVING CONTRACT DATED SEPTEMBER 1, 1922, WITH THE GENERAL PIPELINE COMPANY OF CALIFORNIA.

Application No. 8420

Decided December 5, 1922.

BY THE COMMISSION.

ORDER.

Midway Gas Company has filed with the Railroad Commission a formal application requesting approval by the Commission of a certain contract entered into between Midway Gas Company and General Pipeline Company of California, under date of September 1, 1922, which provides for the sale by Midway Gas Company of surplus natural gas for its main transmission line to the several pumping stations and oil heating plants of General Pipeline Company, which are situated along the route of said transmission line of Midway Gas Company. A copy of aforementioned contract has been duly filed with the Railroad Commission.

General Pipeline Company has, for a period of years, been purchasing natural gas for use at its pumping plants, from Midway Gas Company in accordance with the terms of a certain contract dated May 25, 1916, now expired, but heretofore filed with the Railroad Commission in connection with applicant's schedule of rates and designated as Schedule No. A-5. The provisions of the new contract for which approval is now asked would set aside and cancel the former contract and rate schedule No. A-5 of Midway Gas Company.

Evidence indicates that Midway Gas Company has not at the present time a market for all the natural gas that it can transport, and it is therefore desirous of selling such surplus gas as it may have. Further, the General Pipeline Company is desirous of using gas fuel at its pumping and heating plants, provided the same can be purchased at a favorable rate compared with the price of fuel oil. Recent changes

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in the price of fuel oil and applicant's operating costs have made necessary the modification of the rates set forth in Schedule No. A-5. The proposed new contract provides for a favorable rate for gas, depending upon the market price of oil. Investigation shows that natural gas has a definite fuel value in comparison with crude oil, and the rates set forth in the proposed new contract are much more nearly in accord with the equivalent cost of oil fuel than were the rates established by Schedule No. A-5.

The rates herein set forth fix a minimum charge of 14 cents per thousand cubic feet for natural gas when the field price offered by Standard Oil Company of California for crude oil of a gravity of 17.9 degrees or lower Baumé is 84 cents per barrel or less. If the price of oil increases above 84 cents per barrel the price of gas is to increase one-half cent per thousand cubic feet for each 4 cents increase per barrel in the price of crude oil above 84 cents per barrel, the maximum price of gas, however, being limited to 25 cents per thousand feet. This schedule of rates tends to result in a slight benefit to the General Pipeline Company with increasing oil costs, as the gas rate increases less rapidly than oil prices.

From the showing made by applicant and the investigation by the Commission of the facts and circumstances involved, it appears, and the Commission hereby finds, that the proposed rates are reasonable and the acceptance of the new contract is justified.

It is hereby ordered, that the contract dated September 1, 1922, between Midway Gas Company and the General Pipeline Company of California for the sale and purchase of natural gas be and hereby is approved and accepted for filing with the Railroad Commission of the State of California.

It is hereby further ordered, that Schedule No. A-5 of the schedule of rates of the Midway Gas Company as previously filed with the Railroad Commission be canceled.

Dated at San Francisco, California, this fifth day of December, 1922.

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DECISION No. 11314.

IN THE MATTER OF THE APPLICATION OF THE MIDWAY GAS COMPANY FOR AN ORDER CANCELING SCHEDULE No. A-5 OF SCHEDULE OF RATES OF THE MIDWAY GAS COMPANY, AND APPROVING CONTRACT DATED SEPTEMBER 1, 1922, WITH THE GENERAL PETROLEUM CORPORATION.

Application No. 8421.

Decided December 5, 1922.

BY THE COMMISSION.

ORDER.

Midway Gas Company has filed with the Railroad Commission a formal application requesting approval of a certain contract entered into between Midway Gas Company and General Petroleum Corporation, under date of September 1, 1922, which provides for the sale by Midway Gas Company of surplus natural gas from its main transmission line to the Lebec topping plant of General Petroleum Corporation, which is situated on the route of said transmission line of Midway Gas Company. A copy of aforementioned contract has been duly filed with the Railroad Commission.

General Petroleum Corporation has, for a period of years, been purchasing natural gas for use at its topping plant from Midway Gas Company in accordance with the terms of a certain contract, now expired, and heretofore filed with the Railroad Commission in connection with applicant's schedule of rates and designated as Schedule No. A-5 thereof. The provision of the new contract for which approval is now asked would set aside and cancel the former contract and schedule of Midway Gas Company No. A-5.

Evidence indicates that Midway Gas Company has not at the present time a market for all of the natural gas that it can transport, and it is therefore desirous of selling such surplus natural gas as it may have. Further, the General Petroleum Corporation is desirous of using gas fuel at its topping plant, provided the same can be purchased at a rate which compares favorably with the price of fuel oil. Recent changes in the price of fuel oil and in applicant's operating costs have made necessary a modification of the rates set forth in Schedule No. A-5. The proposed new contract provides for a variable rate for gas, depending upon the market price of oil. Investigation shows that natural gas has a definite fuel value in comparison with crude oil, and the rates set forth in the proposed new contract are more nearly in accord with the equivalent cost of oil fuel than were the rates established by Schedule No. A-5.

The rate herein provided is a minimum of 14 cents per thousand cubic feet for natural gas when the field price offered by Standard Oil

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Company of California of crude oil of a gravity of 17.9 degrees or lower Baumé is 84 cents per barrel or less. If the price of oil increases above 84 cents per barrel the price of gas is to increase one-half cent per thousand cubic feet for each 4 cents increase per barrel in the price of crude oil above 84 cents per barrel, the maximum price of gas, however, being limited to 25 cents per thousand feet. This schedule of rates tends to result in a slight benefit to the General Petroleum Corporation with increasing oil costs, as the gas rate increases less rapidly than oil prices.

From the showing made by applicant and the investigation by the Commission of the facts and circumstances involved, it appears, and the Commission hereby finds, that the proposed rates are reasonable and the acceptance of the new contract is justified.

It is hereby ordered, that the contract dated September 1, 1922, between Midway Gas Company and General Petroleum Corporation for the sale and purchase of natural gas be and hereby is approved and accepted for filing with the Railroad Commission of the State of California.

It is hereby further ordered, that Schedule No. A-5 of the schedule of rates of the Midway Gas Company as previously filed with the Railroad Commission be canceled.

Dated at San Francisco, California, this fifth day of December, 1922.

DECISION No. 11316.

CITY OF SACRAMENTO, A MUNICIPAL CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1430.

Decided December 5, 1922.

CROSSING—SUBWAY—FLOOD CONTROL.—In approving a subway to carry Sixteenth street under the tracks of the Southern Pacific Company on B street, which is a flood protection levee, the Commission held it was not within its province to determine what provisions are necessary for flood protection.

Robert L. Shinn, for Complainant.
G. J. Bradley, for Sacramento Pipe Works.
C. F. Wieland, for Sacramento Pipe Works and Complainant.
C. W. Durbrow and *Elmer Westlake*, for Defendant.

ROWELL, *Commissioner.*

OPINION ON REHEARING AND PROPOSED RESCISSION, ALTERATION OR AMENDMENT OF PRIOR ORDER.

This matter, involving the construction of a subway at Sixteenth and B streets, city of Sacramento, comes before the Commission on com-

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plainant's petition for rehearing. Public hearings were held at Sacramento on February 25, 1921, and October 2, 1922.

In the first of these hearings complainant stated that it wished to hasten and encourage industrial development north of B street, and that by reason of a fire, traffic through the existing Twelfth street subway was blocked for several hours, thus diverting the traffic to the grade crossing of Sixteenth street and that the city was of the opinion that more than one outlet to the north was therefore necessary and desired to offer evidence in this connection as an argument for rehearing. Defendant did not oppose rehearing and had no objection to complainant presenting a full case, with the exception that the traffic count at the Twelfth street subway should not again be gone into.

At Sixteenth street the Southern Pacific has a double track main line and a drill track on B street, located on top of a levee sixteen or eighteen feet above the natural level of the surrounding land, and by reason of this, Sixteenth street can be carried through this levee approximately without changing grade, so that a subway in this location is actually a tunnel through a levee rather than the more common case of a dipping of a street under a railway. This B street levee is part of the levee system protecting Sacramento against the flood waters of the American and Sacramento rivers. The proposed subway would supersede an existing grade crossing, the roadway of which the evidence indicates is about twenty feet wide and with a steep approach, approximately eight and one-half per cent, on the south side. Complainant's Exhibit No. 10 indicates no protection except two standard crossing signs. Official time tables of Southern Pacific Company show that at the date of the last hearing thirty regular passenger trains and eight regular freight trains crossed Sixteenth street daily.

It was stipulated that the Southern Pacific franchise on B street was, at the time, the subject of litigation instituted by the city of Sacramento against the railroad to declare the franchise at an end.

At the close of the second hearing I visited the site of the proposed subway, the Twelfth street subway and the Twelfth street bridge across the American River, noting that a concrete pavement had been installed on Sixteenth street north of the city limits up to the Twelfth street bridge. From this inspection it appears that if a subway is installed at Sixteenth street the existing grade crossing at Eighteenth street can, and should be, abolished and it is suggested that this be done.

The principal issue before the Commission is whether public convenience and necessity justify the construction of a subway at either Sixteenth street or Eighteenth street. The city wants a subway at

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Sixteenth street for the industrial development of the property immediately north of B street, for another and better entrance to the city of Sacramento to the north and to relieve the alleged inadequacy of the Twelfth street subway. The city takes the further position that the Commission should take care of the situation as it is today, regardless of future tracks which the defendant alleged it wished at some time to lay down as an extension of its yard north of B street.

Sacramento Pipe Works, a manufacturer of piping and wholesaler of pipe fittings, has acquired a tract of land just north of B street where it intends to move its plant and alleges it can not do so, as it is impractical to haul the heavy loads inherent to its business over the present grade crossing at Sixteenth and B streets.

The defendant opposes an additional subway, claiming the Twelfth street subway is adequate and because it interferes with its plans for an extension of its yards, taking the position that a subway, if built, should be located at Eighteenth and B streets to avoid said interference. I do not believe that the latter objection should be given much weight. It appears from defendant's Exhibit No. 21 that the yard could be extended across Sixteenth street, if the subway were constructed, by raising the tracks above the elevation as shown therefor in the cross-section on this exhibit, although it would increase the cost. The city does not desire the subway at Eighteenth street and there seems to be no reason why it should be there located.

Defendant takes the position that the flood gates attached to the structure shown on complainant's Exhibit "F" do not constitute adequate flood protection, advocating a bow levee in lieu thereof, and wants the responsibility for any damage ensuing because of the failure of the flood gates placed either upon the city or the Commission and stating it is incumbent upon the Commission to provide a plan to adequately protect its property and the city of Sacramento. The responsibility for future damage can not be determined by the Commission nor is it incumbent upon the Commission to determine what provisions are necessary for flood protection.

After a careful consideration of all the evidence I can not avoid the conclusion that the construction at this time of a subway at Sixteenth street is justified by public convenience and necessity. I am unable to agree with defendant that the city should pay part of the cost of a subway longer than that necessary for the existing three tracks and upon this conclusion it appears that it would be equitable if complainant and defendant divide equally the cost of a subway under the three existing tracks substantially as shown in complainant's Exhibit "F," that is, as far as the point and manner of crossing, the general type of structure, elevations, grades and clearances are con-

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cerned. No requirements as to the method of flood protection should be made by the Commission.

The complaint states that the city directed that the Commission be petitioned "to grant and order the construction" of a subway. This is interpreted as the request for a permissive, rather than a mandatory order.

The following form of order is recommended:

ORDER ON REHEARING AND RESCINDING FORMER ORDER.

Public hearings have been held in the above entitled case, the matter having been submitted and now being ready for decision and it appearing that the Commission should permit the separation of street and railway grades under certain conditions hereinafter specified;

It is hereby ordered, that permission be and it is hereby granted city of Sacramento to construct a subway to carry Sixteenth street, city of Sacramento, under the tracks of Southern Pacific Company located on B street, city of Sacramento, subject to the following conditions and not otherwise:

(1) Said subway shall be constructed substantially in accordance with the plans and specifications shown and set forth in complainant's Exhibit "F," except as to the method of flood protection, and as to this no order is made.

(2) The authorization herein granted for the installation of said subway will lapse and become void one year from the date of this order, unless a substantial beginning of the construction of said subway or proceedings to commence said construction are begun within said year, or unless further time is granted by subsequent order.

(3) The existing grade crossing at Sixteenth and B streets shall effectively be closed to public use and travel.

It is hereby further ordered, that if and when said subway is constructed the cost thereof is to be borne equally by the city of Sacramento and Southern Pacific Company.

It is hereby further ordered, that Decision No. 7829, dated July 9, 1920, be and it is hereby rescinded and set aside.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of December, 1922.

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DECISION No. 11317.

IN THE MATTER OF THE APPLICATION OF H. D. ROCHEVILLE, DOING BUSINESS UNDER THE NAME OF INTERSTATE AUTO TOURS STAGE COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AND HAND-BAGGAGE SERVICE BETWEEN LOS ANGELES OR SAN FRANCISCO, CALIFORNIA, AND PORTLAND, OREGON, OR SEATTLE, WASHINGTON.

Application No. 8427.

Decided December 5, 1922.

CERTIFICATE—AUTO STAGE—INTERSTATE SERVICE.—An application for a certificate for interstate auto stage service is discussed, the Commission holding that under section 9, chapter 213, Statutes 1917, a certificate is not required from the Commission.

BY THE COMMISSION.

ORDER OF DISMISSAL.

In this application H. D. Rocheville, doing business under the fictitious name of Interstate Auto Tours Stage Company, applies to the Railroad Commission for a certificate of public convenience and necessity authorizing the operation of an automobile stage line for the transportation of passengers and hand-baggage between Los Angeles or San Francisco, California, and Portland, Oregon, or Seattle, Washington, with no service between intermediate points.

The application expressly recites that the service proposed is for through passengers only and that no passengers will be booked or carried locally between any intermediate points within the State of California, but solely between either Los Angeles or San Francisco on the one hand and Portland, Oregon, or Seattle, Washington, on the other.

Section 9 of chapter 213, Statutes of 1917, as amended, provides:

> Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress.

It would appear from the service herein proposed by applicant that he intends solely to operate an interstate transportation service and not to engage in any manner whatsoever in transportation of passengers or baggage between two points, both of which are located within the State of California. Accordingly, we believe that under the provisions of section 9 hereinabove quoted, that no certificate of public convenience and necessity is required from this Commission for operation as herein proposed and that the application should be dismissed.

It is hereby ordered, that the above entitled application be and the same hereby is dismissed.

Dated at San Francisco, California, this fifth day of December, 1922.

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DECISION No. 11324.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 5, 1922.

BY THE COMMISSION.

EIGHTEENTH SUPPLEMENTAL ORDER.
WESTERN STATES GAS AND ELECTRIC COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of the Stockton Division of Western States Gas and Electric Company and has found a total of 14,161 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Western States Gas and Electric Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Western States Gas and Electric Company to remove said infractions and hazardous conditions and bring its entire system in its Stockton Division into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before November 1, 1923;

It is hereby ordered, that the time during which Western States Gas and Electric Company may reconstruct its overhead electric lines in its Stockton Division to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to November 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911" upon field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

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It is hereby further ordered, that before November 1, 1923, Western States Gas and Electric Company complete the reconstruction of its overhead electric lines in its Stockton Division to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911" upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

It is hereby further ordered, that Western States Gas and Electric Company instruct its agents and employees in the entire territory covered by its overhead lines, as to the requirements of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, and take adequate steps to eliminate completely infractions of said act upon its entire system by December 31, 1923.

Dated at San Francisco, California, this fifth day of December, 1922.

DECISION No. 11325.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 5, 1922.

BY THE COMMISSION.

NINETEENTH SUPPLEMENTAL ORDER.
SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of San Diego Consolidated Gas and Electric Company and has found a total of 8970 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished San Diego Consolidated Gas and Electric Company or its agents by this Commission; and

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Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for San Diego Consolidated Gas and Electric Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before November 1, 1923;

It is hereby ordered, that the time during which San Diego Consolidated Gas and Electric Company may reconstruct its overhead electric lines to conform with the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to November 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911" upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before November 1, 1923, San Diego Consolidated Gas and Electric Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911" upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this fifth day of December, 1922.

DECISION No. 11330.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE FIVE PER CENT BONDS OF THE PAR VALUE OF ONE HUNDRED TWENTY-SEVEN THOUSAND DOLLARS.

Application No. 8414.

Decided December 7, 1922.

Chickering and Gregory, by *Allen L. Chickering,* for Applicant.

BENEDICT, *Commissioner.*

ORDER.

Western States Gas and Electric Company asks permission to issue and sell, at not less than 89 per cent of their par value and accrued interest, $127,000 of first and refunding (now first) mortgage 5 per cent gold bonds due June 1, 1941, and use the proceeds to finance in part reported construction expenditures of $161,228.93. It is of record that no bonds or stock have been issued against such construction expenditures.

Applicant has agreed to close its first and refunding mortgage, now a first mortgage, when $4,600,000 of the bonds are outstanding in the

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hands of the public. The $127,000 of bonds covered by this application are the last bonds which applicant can issue under such mortgage.

A public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell, on or before March 1, 1923, at not less than 89 per cent of their par value and accrued interest, $127,000 par value of its first and refunding (now first) mortgage 5 per cent gold bonds due June 1, 1941, and use the proceeds to finance in part construction expenditures incurred on or before October 31, 1922.

The authority herein granted is subject to further conditions as follows:

(1) Western States Gas and Electric Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(2) The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $127.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of December, 1922.

DECISION No. 11333.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 8271.

Decided December 7, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

By Decision No. 11037, dated September 29, 1922, the Railroad Commission authorized Southern California Gas Company to issue and sell $2,000,000 of its first and refunding mortgage 5½ per cent 30-year

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bonds subject, among others, to the condition that the proceeds from the sale of $944,483.40 face value of such bonds be deposited with the trustee and expended only for such purposes as the Commission might thereafter authorize.

The Railroad Commission by its first and second supplemental orders in the above entitled matter has authorized the company to use the proceeds from the sale of $370,000 of such $944,483.40 of bonds to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its properties prior to September 30, 1922, or to pay floating debt incurred for the purpose of making such additions and betterments.

Applicant has now filed with the Commission a statement showing that during the month of October, 1922, it expended for construction purposes the sum of $263,487.91. It asks permission to use the proceeds from the sale of $197,000 of the bonds heretofore authorized by the Commission to reimburse its treasury on account of earnings used to finance these expenditures or to pay floating debt incurred for such purpose.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 11037, dated September 29, 1922, be and it is hereby modified so as to permit Southern California Gas Company to use the proceeds from the sale of $197,000 face value of first and refunding mortgage bonds, the issue of which has heretofore been authorized by that decision, to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its plant and properties up to and including October 31, 1922, or to pay floating debt incurred for the purpose of making such additions and betterments.

It is hereby further ordered, that the order in Decision No. 11037, dated September 29, 1922, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this seventh day of December, 1922.

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DECISION No. 11334.

IN THE MATTER OF THE APPLICATION OF PALERMO LAND AND WATER COMPANY, A CORPORATION, TO SELL ITS WATER SYSTEM, AND F. F. FORD AND OROVILLE-WYANDOTTE IRRIGATION DISTRICT TO PURCHASE SAME

Application No. 8000.

IN THE MATTER OF THE APPLICATION OF SOUTH FEATHER LAND AND WATER COMPANY, A CORPORATION, TO SELL ITS WATER SYSTEM, AND F. F. FORD AND OROVILLE-WYANDOTTE IRRIGATION DISTRICT TO PURCHASE THE SAME.

Application No. 8018.

Decided December 8, 1922.

TRANSFER—WATER UTILITY—IRRIGATION DISTRICT—OUTSIDE USERS—CONTRACT RIGHTS.—In granting the Palermo Land and Water Company and South Feather Land and Water Company permission to transfer their public utility properties to Oroville-Wyandotte Irrigation District, the Commission made a part of its order conditions contained in the applications and proposals agreed upon between the parties for the protection of users that have not joined the district. This applied to rates, service and contract rights.

Joseph G. De Forest, for Palermo Land and Water Company.
Frank Tade, for South Feather Land and Water Company.
Raymond A. Leonard, for Oroville-Wyandotte Irrigation District.
F. F. Ford, in propria persona.
Douglas Brookman, for Protestants, 82 water users of Palermo Land and Water Company.
Clay Slocum, for George E. Bates.

BY THE COMMISSION.

OPINION.

In these proceedings the Palermo Land and Water Company and the South Feather Land and Water Company, public utilities distributing and selling water for irrigation in Butte County, ask authority to sell their water systems; the Oroville-Wyandotte Irrigation District, a district duly organized under the laws of the State of California for the purpose of providing water for the irrigation of certain lands in Butte County, including the area now served by the two public utility companies, joins in the applications as purchaser. F. F. Ford appears in these proceedings as an intermediary only, for the purpose of expediting the transfers sought. He has filed a waiver wherein he asks that any transfer authorized by the Commission be direct from the water companies to the irrigation district.

The applicants allege that the transfer will benefit the public in that it will result in an increased, more dependable and better regulated water supply for the area served, and will provide irrigation service to a larger area than is now served and probably at a lower cost.

The purchase price to be paid to each of the selling companies by the district is $200,000, which sum has been mutually agreed to between the respective parties.

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Hearings in these proceedings were held before Examiner Satterwhite at Oroville and San Francisco, of which all interested parties were notified and given an opportunity to appear and be heard.

It appears that the district followed the usual procedure in its organization, including the giving of due notice of intention and inviting the landowners within a certain area to join the proposed district. The district boundaries originally contemplated included the lands now being served by the two utilities, but as only a few of the owners of such lands expressed a desire to join the proposed district, the revised boundaries excluded the lands of those water users who did not join the district. The district was then formed and negotiations were begun by F. F. Ford to purchase the properties of the two utilities for the district. Mutually agreeable terms having been arranged, the above named applications were filed and these proceedings instituted.

At the first hearings in these proceedings eighty-two of the water users of the Palermo Land and Water Company who had not joined the district, protested against the transfer, alleging that if the authority to transfer was granted they would be without the jurisdiction of the Railroad Commission, and that they would be without adequate protection as to future rates and service. They requested that before the transfer be authorized the district be required to give guarantees as to future rates to be charged for water and the service to be rendered, and also that some provision be made for the water users to join the irrigation district.

Representatives of the district expressed a desire to protect the protestants' rights to the limit that is allowed by the law under which the district was organized. To show that consideration had been given the consumers' rights, reference was made to that portion of the proposed deed of transfer which provides that it is "understood that said property is so conveyed to said party of the second part subject to all existing obligations of the party of the first part to furnish water to the present water users and to such firms or corporations as are entitled to the use of water from said party of the first part." The matter was submitted without any definite proposal from the district.

After a number of conferences between representatives of the Commission, the companies, the district, and the protestants, the district and the protestants agreed on a form of proposal to be submitted, whereupon the Commission ordered the matters reopened and set a day for hearing, that the proposal could be submitted and made a part of the record in these proceedings.

This proposal, applying to the water users of the Palermo system, is in the form of a resolution of the board of directors of the district, and is set out in full as follows:

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On motion duly made, seconded and unanimously carried, the following resolution was adopted:

Whereas, on the 30th day of June, 1922, there was filed Application Number 8000 with the Railroad Commission of the State of California, which application is entitled: "*In the matter of the application of Palermo Land and Water Company, a corporation*, to sell its water system, and *F. F. Ford* and *Oroville-Wyandotte Irrigation District* to purchase the same."

And whereas, said application was filed for the purpose of said Palermo Land and Water Company receiving permission from the Railroad Commission of the State of California to sell its water system to the Oroville-Wyandotte Irrigation District, and

Whereas, a public hearing on said application was held at Oroville, California, on the 22d day of August, 1922, and

Whereas, at the said hearing the present water users of the Palermo Land and Water Company did file a protest against the granting of the said application, and

Whereas, in consideration of the said present water users withdrawing their said protest the said Oroville-Wyandotte Irrigation District does agree to enter into contracts with each of said water users accepting this offer as herein set forth within six months from date hereof,

Whereas, the term "present water users" is hereby declared to mean the owners, their heirs, successors, grantees and assigns of land supplied with water from the water system of the Palermo Land and Water Company and which lands are not now in the Oroville-Wyandotte Irrigation District,

Now, therefore, be and it is hereby resolved that the president and secretary of the Oroville-Wyandotte Irrigation District, be and they are hereby directed and empowered to enter into the above mentioned contract or contracts, for and on behalf of the said Oroville-Wyandotte Irrigation District and in its name, and in accordance with the terms and conditions herein contained.

FIRST.

That the said water users, and each of them shall be entitled to and shall receive one (1) inch of water, continuous flow, for every four (4) acres of land. The amount of water now supplied to said water users shall continue to be so supplied by said irrigation district and shall be part of the said one (1) inch of water for every four (4) acres of land, and the additional water necessary to make one inch of water continuous flow for every four (4) acres of land shall be available to said water users from the first water developed by the said district.

SECOND.

That the present rate of twenty-two cents (22 cts.) per miner's inch continuous flow per day of twenty-four hours for water for irrigation purposes, with a minimum charge of five dollars ($5) per acre per year, shall be the rate charged by the district and paid by the water users for the said water until January first, 1928. The district shall not charge any rate for said water in excess of the rates above specified.

THIRD.

If at any time, five (5) years after the first construction work has been started by said irrigation district, any of the present water users shall make a legal application to have their lands included in the said Oroville-Wyandotte Irrigation District, and said application shall be rejected by said Oroville-Wyandotte Irrigation District, then and in that event the said water user shall pay the same charge for water on his land as is paid for water within the Oroville-Wyandotte Irrigation District. The said irrigation district shall act upon said applicaton within ninety (90) days from the date of the filing thereof.

FOURTH.

That the above mentioned rates specified in paragraph two hereof shall not be raised after January first, 1928, provided however that should the charge paid for water within the said district exceed the said sum of twenty-two cents (22 cts.) per inch, then and in that event the present water users shall pay the same charge as is paid within said district.

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FIFTH.

All the existing rights of the present water users shall continue and this agreement is an addition to all the rights and benefits they now possess.

SIXTH.

Should any of the present water users at any time have their lands included within the Oroville-Wyandotte Irrigation District, then and in that event this agreement shall be null and void, as to such water users.

Be it further resolved, that the secretary of the Oroville-Wyandotte Irrigation District be and he is hereby directed to file a certified copy of this resolution with the Railroad Commission of the State of California, as part of the records of Application Number 8000, as a stipulation by the district in said proceedings, to the end that the said Commission may proceed to make its order in said matter.

(Signed) J. A. WISNER, (Attest)
Secretary

Approved:
(Signed) R. C. TYLER,
Chairman.

The proposal applying to the water users of the South Feather system is identical in terms with the above, with the exception of the rate, which has been made $50 per miner's inch per season. This is a reduction of $10 per miner's inch per year from the present rate established by this Commission. The reduction in rate on the South Feather system makes the charges for the quantity of water the same on both systems, as the Palermo Land and Water Company delivers and sells water on the basis of 50 miner's inches per second-foot, while the South Feather Land and Water Company uses 40 miner's inches per second-foot.

Upon the presentation of this proposal at the further hearing of the matter, the protestants formally withdrew their objections to the transfer.

The question was raised as to the status of the lands that were entitled to water because of contracts entered into at the time of their purchase from the Palermo Land and Water Company, but for various reasons have not as yet received water service. The district took the position that it assumed the obligations of the Palermo system as set out in the deed of transfer, but that it could not properly hold water for these lands indefinitely and would therefore limit the period of final development and delivery of water to these lands to ten years from the date of taking over the system. Only one land owner appeared to protest this limitation, and while he did not withdraw the protest, he admitted that the ten years' limitation appeared to be fair.

Inasmuch as the applications filed with the Commission did not specifically set out the status of the water users outside the district or indicate the rates to be charged and service to be rendered but only generally referred to same as set out in the deed of conveyance hereinbefore referred to, the Commission believed that a transfer under

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such conditions would not have properly safeguarded the rights of the water users, and purposely delayed authorization of the transfer until something more definite was offered the water users. Now that a method has been proposed whereby the water users outside the district are given reasonable protection as to service and rates, and because of which the protestants withdrew their protest to the transfer, the Commission now believes that public convenience will best be served by granting the authority sought, subject to the conditions contained in the applications and in the proposals submitted in connection therewith.

ORDER.

Palermo Land and Water Company and South Feather Land and Water Company, public utility water corporations, having filed applications with this Commission for authority to transfer their public utility properties to F. F. Ford and Oroville-Wyandotte Irrigation District, and F. F. Ford having indicated in writing his desire that the Commission authorize the transfer of these properties to the district direct, the Oroville-Wyandotte Irrigation District having joined in these applications, hearings having been held and the matters having been submitted;

It is hereby ordered, that the applications designated above be and the same are hereby granted, subject to the following conditions:

1. The authority herein granted shall apply only to that particular public utility property of the Palermo Land and Water Company set forth and described in Exhibits Six (6) and Seven (7) attached to the application (No. 8000), and only to that particular public utility property of the South Feather Land and Water Company set forth and described in the proposed instrument of conveyance attached to Application No. 8018.

2. That the present water users of the two water companies parties hereto, and those persons or firms desiring to become water users within ten (10) years from the date hereof, shall receive service from the Oroville-Wyandotte Irrigation District at the rates and under the conditions recited in Application No. 8000 and Application No. 8018 and in the resolutions of the directors of the Oroville-Wyandotte Irrigation District, dated October 20, 1922, submitted and marked as Exhibit 4 in Application No. 8000 and Exhibit 5 in Application No. 8018.

3. The consideration involved in these transfers, or either of them, shall not be urged before this Commission or any other public body as a measure of value for rate fixing purposes.

4. Within thirty (30) days after its execution the Oroville-Wyandotte Irrigation District shall file with the Commission a verified copy

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of the deed under which it has secured and holds title to the properties authorized to be transferred.

5. Palermo Land and Water Company and the South Feather Land and Water Company shall notify the Commission of the date on which each relinquishes control and possession of the properties, such notification to be submitted to the Commission within ten (10) days after control and possession of the properties has been relinquished.

6. The authority herein granted shall apply only to such sale and transfer as shall have been effected on or before June 30, 1923.

Dated at San Francisco, California, this eighth day of December, 1922.

DECISION No. 11335.

ANTELOPE VALLEY MILK PRODUCERS ASSOCIATION, A VOLUNTARY AND UNINCORPORATED ASSOCIATION,

vs.

WALTER KIELHOFER.

Case No. 1801.

IN THE MATTER OF THE APPLICATION OF JOHN H. UNDERWOOD FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE (MILK ROUTE) BETWEEN LANCASTER AND LOS ANGELES.

Application No. 8211.

IN THE MATTER OF THE APPLICATION OF D. K. HUTCHINSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE BETWEEN LANCASTER AND VICINITY AND LOS ANGELES, CALIFORNIA.

Application No. 8246.

Decided December 8, 1922.

T. H. Brice, for Complainant.
W. C. Snyder, for Defendant.
W. I. Morrison, shipper, *in propria persona*.
Chas. E. Sterns, for D. K. Hutchinson, Applicant.
John H. Underwood, Applicant, *in propria persona*.
T. A. Woods, for American Railway Express, Protestant.
L. N. Bradshaw, for Southern Pacific Company, Protestant.
F. F. Sullivan, for Red Line Express, Protestant.

BY THE COMMISSION.

OPINION.

Antelope Valley Milk Producers Association complains of Walter Kielhofer, defendant, and alleges that he ceased to follow his schedule on file with this Commission for the pick-up and transportation of milk from certain producers, and that such failure to observe schedules caused milk to deteriorate and that generally defendant's service has been inefficient and inadequate. Complainant prays that,

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because of the facts alleged, defendant's certificate to operate be revoked. Defendant, in his answer, denies specifically the allegations of complainant, and affirmatively alleges that a change of methods and rates, put in force by him July 24, 1922, was authorized by the Railroad Commission.

Defendant moved to dismiss the complaint, on the ground that the Antelope Valley Milk Producers Association, a voluntary organization, unincorporated, had not authorized its secretary, Mrs. Birdie F. Pemberton, to institute the complaint. The motion was denied, on the ground that, though the irregularity may have been established, no prejudice attached to the fullest inquiry by the Commission into the complaints made in the interest of the shipping public.

Applicants Hutchinson and Underwood seek to succeed defendant Kielhofer, in event that, if the complaint is sustained and the certificate of defendant revoked, either may, under a showing of public necessity, establish a new service.

A public hearing was held at Lancaster by Examiner Williams, the matters by stipulation being consolidated for hearing.

It appears from the testimony that defendant found road conditions during the winter of 1922 frequently very bad, and that mud and snow, at different times, made it impossible for him to observe his schedules. Upon such a showing, with the assent of the complainant herein, the Commission, under date of May 12, 1922, granted defendant authority to desist pick-up at ranches and established a reduced rate from Lancaster to Los Angeles. This affected all shippers and intended that each should deliver his milk to the defendant carrier at his depot in Lancaster. The testimony shows, however, that this was not the result of the filing of the new tariff, but that the carrier continued to pick up milk for some shippers on the "east side" at the rate of 10 cents per can additional to the new rate from Lancaster; and, as to shippers on the "west side," continued pick-up at the old rate.

It was not until July 24, 1922, that the carrier desisted from pick-up at the west side ranches and then, not because of bad road conditions, but because of heat and distance, the west side shippers being about ten miles from Lancaster. Thereafter these shippers were required to transport their milk to Lancaster by their own means.

In effect, the carrier did maintain a public service between Lancaster and Los Angeles, and an optional, private pick-up, at his own rates, in the shipping area about Lancaster. The result was confusing, inequitable among shippers, and altogether dissatisfactory to shippers and creameries at Los Angeles, according to the testimony.

It was shown by witnesses that defendant's service was often delayed and several times utterly failed in transporting milk to Los Angeles,

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and that there was similar delay in returning dairy feed and supplies. Defendant's excuse for these inefficiencies was impossible operating conditions, due to impassable roads. In a large measure, defendant's excuses were real. No service of this character, from a region approximately 80 miles from the destination of the product, can be maintained at all times, in spite of the elements, with regularity.

On the whole, however, there is not sufficient evidence on which to justify revocation of defendant's certificate, and we must so find as a fact. Defendant understands his field of operation by long experience, has adequate equipment, and made the promise at the hearing that he would restore his former service and rates if the Commission so directed. This proffer of defendant is to the advantage of all parties and should become the basis of a new and better service than has been given. Defendant testified that he regards the rates too low to give the pick-up service desired by shippers and that the uniform rate for all, regardless of distance and road conditions, caused dissatisfaction on the part of east side shippers, who believed their rates should be lower than the remote west side shippers. If defendant regards his rates as noncompensatory or discriminative, he should make application for a revision of them. The region is developing as a dairy field and the present producers testified they would enlarge their herds and production if stable service to their only available market, Los Angeles, were provided. All that may now be done is to order the old rates and pick-up service restored, and the order following will so require.

As there was no testimony that public necessity requires the service of more than one carrier, and as the facts show that there is only traffic enough for one, the applications of Underwood and Hutchinson may be denied without prejudice.

ORDER.

Antelope Valley Milk Producers Association having made complaint to the Railroad Commission, praying for revocation for cause of the certificate of public convenience and necessity heretofore granted to Walter Kielhofer, defendant herein, a public hearing having been held whereat all parties were heard, and the matter having been duly submitted, and now basing its order on the findings of facts in the foregoing opinion;

It is hereby ordered, by the Railroad Commission of the State of California, that complaint herein be and the same hereby is dismissed.

And it is further ordered, that defendant Walter Kielhofer file within ten days from date hereof a tariff canceling rates established by his C. R. C. No. 3, superseding his C. R. C. No. 2, and reinstating said rates contained in his C. R. C. No. 2.

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John H. Underwood and D. K. Hutchinson having each applied to the Railroad Commission for certificates of public convenience and necessity to operate auto freight service for the transportation of milk and dairy products between Lancaster and Los Angeles, a public hearing having been held, the matters having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the service proposed by applicants, or either of them, as applied for herein; and

It is ordered, that the applications herein, and each of them, be and same are hereby denied without prejudice.

Dated at San Francisco, California, this eighth day of December, 1922.

DECISION No. 11336.

IN THE MATTER OF THE APPLICATION OF THE HOME TRACT WATER COMPANY OF GARDEN GROVE, CALIFORNIA, FOR AUTHORITY TO INCREASE ITS WATER RATES.

Application No. 7865.

Decided December 11, 1922.

F. L. Doepke, for Applicant.

BY THE COMMISSION.

OPINION.

The Home Tract Water Company, a public utility engaged in the distribution and sale of water for irrigation and domestic uses in the Garden Grove Home Tract, Los Angeles County, and to certain residents of Garden Grove adjoining the tract, asks authority to increase its rates. The applicant alleges that an increase in rates is necessary as the present rates are noncompensatory.

A public hearing was held in this matter before Examiner Williams at Garden Grove. Applicant's consumers were notified and given an opportunity to appear and be heard.

It appears that some time prior to 1910 a Mr. C. W. Brockman subdivided 80 acres of land near Garden Grove and installed a pumping plant to supply the tract with water, and with each acre sold he deeded one-eightieth (1/80) interest in the pumping plant. The plant was apparently thereafter operated for some time on a mutual basis.

On June 1, 1910, the Home Tract Water Company was incorporated for the purpose of acquiring the pumping plant and system. Stock in the new company was given in exchange for the original rights in the plant and since that time water has been sold in the vicinity, to the public in general.

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The rates now in effect are as follows:

Irrigation service:

Sixty cents per hour for full flow of pump.

Domestic service:

Minimum charge, meter and flat rate, $1 per month.
Meter rate, 10 cents per 100 cubic feet.

Water is obtained from two wells by electrically-driven pumps, one well furnishing water for domestic and the other for irrigation purposes. The irrigation water is distributed through approximately 3800 feet of ten-inch concrete pipe. The domestic water is delivered to an automatically regulated pressure tank from which it is distributed to the consumers through about two miles of mains varying from one to three inches in diameter.

The company has about 106 domestic consumers, of whom 63 are metered. At the hearing it was shown that a number of these meters are not in working order and at times have not been read regularly. Mr. Doepke, for applicant, testified that it was the intention to fully meter the system and hereafter to keep the meters in repair. There are about 28 irrigation consumers, irrigating about 45 acres of the tract.

Mr. F. L. Doepke, secretary of the company, testified that no appraisal of the property had been made, but submitted the book value of $9,000 compiled from incomplete records as an indication of the cost of the system. He further testified that the revenues for 1920 and 1921 were $1,521.73 and $1,602.19 respectively, while the expenses for the same period were $1,311.72 and $1,540.06, no allowance being made for a replacement fund.

Mr. John Spencer, one of the Commission's hydraulic engineers, submitted a report based upon a field investigation of the system and the company's office records, showing the estimated original cost of the system to be $10,261, a replacement annuity computed upon the 6 per cent sinking fund basis of $234, and a reasonable amount for maintenance and operation expense to be $1,500 per annum. There were no objections made to the report.

The annual charges, based upon the estimates of the Commission's engineer, are as follows:

Return on $10,261 at 8 per cent	$821 00
Replacement annuity	234 00
Maintenance and operating expense	1,500 00
Total	$2,555 00

It is apparent that the revenues from the rates now in effect do not produce the annual charges and that some increase in rates should be

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allowed. While it is a fact that this district appears to be attracting new settlers, which will increase the number of consumers and consequently the revenues, it is also a fact that the new business will necessitate the installation of additional facilities. This situation has been given due weight in considering proper rates for this utility.

The rates established in the following order are designed to produce a total annual revenue that will approximate the annual charges estimated above:

ORDER.

Home Tract Water Company having applied to the Railroad Commission for authority to increase the rates for water delivered to its consumers, a public hearing having been held and the matter being now submitted:

It is hereby found as a fact that the rates now charged by Home Tract Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates for water delivered by applicant to consumers in Garden Grove Home Tract and vicinity.

And basing its order upon the foregoing findings of fact and upon the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Home Tract Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates, to be charged for all water supplied to its consumers subsequent to January 1, 1923:

Monthly Meter Rates.

0 to 1000 cubic feet, per 100 cubic feet	$0 20
1000 to 4000 cubic feet, per 100 cubic feet	15
Use in excess of 4000 cubic feet, per 100 cubic feet	10

Monthly Minimum Meter Rates.

For ⅝-inch by ¾-inch meter	1 00
For ¾-inch meter	1 25
For 1 -inch meter	1 75
For 1½-inch meter	2 50
For 2 -inch meter	3 00
For 3 -inch meter	4 00

Monthly Flat Rates.

Monthly flat rates as at present on file with this Commission shall remain unchanged.

Rates For Irrigation Service.

Full flow of pump, per hour	$1 00
Minimum charge for each irrigation	75

It is hereby further ordered, that within thirty (30) days from the date of this order Home Tract Water Company shall file with this Commission rules and regulations governing its relations with its con-

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sumers, to become effective upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this eleventh day of December, 1922.

DECISION No. 11337.

IN THE MATTER OF THE APPLICATION OF LIDA MONTEITH FOR AN ORDER AUTHORIZING SELLING WATER FOR IRRIGATION AND DOMESTIC PURPOSES AND SETTING PRICE IF COMMISSION FINDS THAT APPLICANT MUST FURNISH ADJOINING LANDS AND NEIGHBORS WITH WATER.

Application No. 7904.

Decided December 11, 1922.

A. O. Dillon, for Applicant.

BY THE COMMISSION.

OPINION.

Lida Monteith, applicant herein, engaged in the business of supplying water for irrigation and domestic purposes to four consumers in Chino township, San Bernardino County, asks in effect that the Railroad Commission make its order relieving applicant from obligation to sell water to adjoining ranches or to her neighbors; that if the Commission after hearing finds that applicant must sell water to others, it set the price for such service and state how much water must be sold and when applicant must sell water.

A public hearing in this matter was held at Pomona before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and be heard.

The water supplied by this plant is obtained by pumping from a 304-foot 12-inch well into a 3000-gallon tank, from which distribution is made by gravity through approximately 1900 feet of concrete pipe.

The present rates charged by applicant are as follows:

Irrigation rate:

For each hour run of pump $0 76

Domestic rate:

Per month 50

It was shown by uncontested testimony that the property upon which this water plant is located was purchased by Mrs. Monteith, knowing that water was being sold to various consumers; that she continued to sell to these same consumers and the question of service was not raised until a dispute arose with one consumer over an extraneous

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matter; that she is willing to continue service, even if not declared a public utility; that no other source of supply is available to these consumers at the present time.

It appears that this water was dedicated to public use in 1912; that water has been continuously sold to consumers from 1912 to 1922, inclusive, and that adequate service can not be had from other established sources in the district at the present time. The Commission is therefore of the opinion that Lida Monteith is supplying water as a public utility and should continue so to serve.

At this hearing applicant did not present an appraisal of her property, but accepted the appraisal presented by the Railroad Commission's engineer. Mr. D. H. Harroun, one of the Commission's hydraulic engineers, submitted a report of an investigation of the system wherein the estimated original cost was shown as $3,723, and a replacement annuity, computed by the 6 per cent sinking fund method, of $87. The figures presented by Mr. Harroun are considered reasonable and will be used for the purpose of this proceeding.

Based upon the foregoing items, the annual fixed charges are as follows:

Return on $3,723 at 8 per cent	$298 00
Replacement annuity, 6 per cent sinking fund	87 00
	$385 00

A large portion of the water developed by this plant is consumed by applicant upon her own property, but no record has been kept of the amount so consumed. It was therefore impossible to obtain an accurate statement of the total revenues earned by this plant. One consumer served from this system in 1921 obtained his supply elsewhere in 1922, which reduced the quantity of water produced by applicant in 1921 by 46 per cent. Being deprived of this amount of business in 1922, and several of the expenses not being reduced in proportion, the cost of pumping was increased 40 per cent over that of 1921, per hour of operation.

Applicant evidenced intention of improving this plant with the purpose of increasing the delivery capacity, making the service more attractive and satisfactory to water users.

After careful study of the evidence introduced, the Commission is convinced that applicant is entitled to an increased rate for the service rendered and will therefore establish a rate, based on the costs of operation and maintenance in the past and an estimate of same for the future taken in connection with the fixed charges indicated above, which will be fair and proper for water service from this plant.

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ORDER.

Lida Monteith having made application for the determination of her public utility status, and, in the event that the Commission decides that she is operating as a public utility, for the establishment of a proper rate, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that

1. Lida Monteith is furnishing public utility service from her water plant near Pomona, San Bernardino County, and in rendering such service is subject to the jurisdiction of the Railroad Commission.

2. The rates now charged by Lida Monteith for water delivered to her consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing its order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Lida Monteith be and she is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to her consumers, such rates to be effective for all water delivered subsequent to December 31, 1922:

Irrigation rate:

For each hour plant is operated at full capacity, the charge shall be------ $1 25
The minimum charge shall be for one hour's operation of the plant.

Domestic rate:

Flat rate---------- $1 00 per month

It is hereby further ordered, that Lida Monteith be and she is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with her consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of December, 1922.

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DECISION No. 11343.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided December 11, 1922.

BY THE COMMISSION.

SIXTH SUPPLEMENTAL ORDER—APPLICATION NO. 7465.
SEVENTH SUPPLEMENTAL ORDER—APPLICATION NO. 7715.

The Railroad Commission, by Decision No. 9989, dated January 12, 1922, in Application No. 7465, and by Decision No. 10294, dated April 8, 1922, in Application No. 7715, authorized San Joaquin Light and Power Corporation, among other things, to issue and sell $5,000,000 of its 7 per cent cumulative preferred stock and $3,500,000 of Series "D" 6 per cent unifying and refunding mortgage bonds. The orders of the Commission, as amended from time to time, permit the use of proceeds from the sale of $3,978,553.97 of the stock and $2,296,537.34 of the bonds to finance capital expenditures made prior to October 1, 1922, or to pay outstanding indebtedness. The remainder of the proceeds may be expended only for such purposes as the Commission might authorize in supplemental orders.

The company reports, in supplemental petitions filed in the above entitled matters on November 24th, that during the month of October, 1922, it has expended money or incurred indebtedness in the amount of $268,030.26 for the purpose of providing necessary additions, extensions, improvements and betterments to its system. It further reports that none of these expenditures has been paid or provided for through the issue of stock or bonds.

Applicant asks permission to use proceeds from the sale of $267,779.51 of bonds and $250.75 of stock to finance, in part, these reported expenditures, which are described in detail in the statement of expenditures against approved estimates for October which has been filed with the Commission.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds from the sale of $267,779.51 of the bonds authorized by Decision No. 10294, dated

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April 8, 1922, and $250.75 of the stock authorized by Decision No. 9989, dated January 12, 1922, to pay indebtedness incurred in making its October, 1922, construction expenditures, referred to herein, or to reimburse its treasury on account of earnings used for such expenditures.

It is hereby further ordered, that the orders in Decision No. 9989, dated January 12, 1922, as amended, and in Decision No. 10294, dated April 8, 1922, as amended, shall remain in full force and effect except as modified by this supplemental order.

Dated at San Francisco, California, this eleventh day of December, 1922.

DECISION No. 11349.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT PREFERRED STOCK.

Application No. 8436.

Decided December 13, 1922.

Glenn D. Smith, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Ontario Power Company asks permission to issue and sell, at par, $52,000 of its 7 per cent preferred stock for the purpose of financing the cost of additions and betterments.

A public hearing was held before Examiner Williams in Los Angeles on December 5, 1922.

Applicant reports that from June 1 to October 31, 1922, in order to take care of the growth in business, it expended for capital purposes the sum of $52,068.36, as shown in detail in Exhibit "A" attached to the petition. These expenditures, summarized, are shown as follows:

Pole line	$34,098 19
Storehouse	4,735 36
Transformers	7,995 91
Meters	2,644 05
Miscellaneous	2,594 85
Total	$52,068 36

Glenn D. Smith, applicant's general manager, testified that these expenditures have been made from earnings or from borrowed money and have not been paid or provided for through the issue of stock or bonds.

Ontario Power Company has an authorized stock issue of $1,500,000, divided into $900,000 of common and $600,000 of 7 per cent preferred

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stock. As of October 31, 1922, there was $380,000 of common and $288,000 of the preferred outstanding. Its funded debt on the same date is reported as $400,500, consisting of $274,000 of first mortgage 5 per cent bonds, $66,500 of 7 per cent serial gold notes and $60,000 of 7 per cent serial trust notes. Other notes payable are reported as $21,000 and open account as $1,685.71.

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purposes indicated herein;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue and sell, for cash, at not less than par, on or before June 30, 1923, $52,000 of its 7 per cent cumulative preferred stock and to use the proceeds to finance the cost of the additions and betterments made from June 1, 1922, to October 31, 1922, and described in Exhibit "A" attached to the petition; provided

That applicant keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of December, 1922.

DECISION No. 11350.

IN THE MATTER OF THE APPLICATION OF VAN NUYS INVESTMENT COMPANY, ANNIS VAN NUYS SCHWEPPE AND KATE VAN NUYS PAGE, FOR AUTHORITY TO SELL THE WATER SYSTEM KNOWN AS VAN NUYS WATER SYSTEM, TO SAN GABRIEL COUNTY WATER DISTRICT.

Application No. 8444.

Decided December 13, 1922.

Gibson, Dunn and Crutcher, by *S. M. Haskins,* for Van Nuys Water System.
G. A. Bell, for San Gabriel County Water District.

BY THE COMMISSION.

OPINION.

The Van Nuys Investment Company, Annis Van Nuys Schweppe and Kate Van Nuys Page, owners of the Van Nuys Water System, a public utility serving water for domestic and irrigation purposes in and in

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the vicinity of San Gabriel, Los Angeles County, apply to this Commission for authority to sell that public utility water system to the San Gabriel County Water District, a water district organized in the county of Los Angeles, under the provisions of an act of the legislature of the State of California entitled "An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of water works, and for the acquisition of all property necessary therefor, and also provide for the distribution and sale of water by said district," approved June 20, 1913, as amended. The San Gabriel County Water District through its officers joins in the application.

A public hearing was held in the above entitled matter at Los Angeles before Examiner Williams, of which proper publication was made and all interested parties given an oportunity to be present and be heard.

It appears that the San Gabriel County Water District proposes to purchase the entire plant of Van Nuys Water System and serve water, not only to all the territory and consumers now served by the Van Nuys Water System, but also to considerable other territory in the vicinity. The agreed purchase price is $83,000.

No one appeared to protest the granting of the application, and it appears that the interests of the water users on the system will be as well if not better served if such transfer is authorized.

ORDER.

Proper application having been made, hearing having been held and the matter being ready for decision;

It is hereby orderd, that the Van Nuys Investment Company, Annis Van Nuys Schweppe and Kate Van Nuys Page, be and they are hereby authorized to sell and convey to the San Gabriel County Water District a certain water distributing system known as the Van Nuys Water System, together with lands and other property pertaining thereto, more particularly described in Exhibit A, attached hereto and made a part hereof, upon the following conditions and none other:

1. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before March 1, 1923, and a certified copy of the instrument of conveyance shall be filed with the Commission by Van Nuys Investment Company, Annis Van Nuys Schweppe and Kate Van Nuys Page, within thirty (30) days from the date on which it is executed.

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3. Within ten (10) days from the date on which Van Nuys Investment Company, Annis Van Nuys Schweppe and Kate Van Nuys Page, actually relinquish control and possession of the property herein authorized to be transferred, they shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this thirteenth day of December, 1922.

EXHIBIT "A."

A description of the property known as the Van Nuys Water System, to be conveyed by Van Nuys Investment Company, Annis Van Nuys Schweppe and Kate Van Nuys Page, to San Gabriel County Water District.

Parcel No. I. That portion of lot 1, Tract No. 1216, as per map recorded in book 18 of maps at page 32, records of county of Los Angeles, California, and more particularly described as follows, to wit:

Beginning at a 2" iron pipe set in the westerly line of said lot 1, at a point N. 7° 09' E. 249.88 feet from the most westerly corner of said lot 1 and running thence from said point of beginning, S. 82° 51' E. 40 feet to a 2" iron pipe; then S. 82° 13' 30" E. 319.80 feet to a 2" iron pipe; thence N. 82° 51' 30" E. 151.40 feet to a 2" iron pipe set in the easterly line of said lot 1 at a point which is N. 13° 28' W. 67.41 feet from the most easterly corner thereof; thence along the easterly line of said lot 1, N. 13° 28' W. 434.30 feet to the southerly line of a 20 foot strip of land lying along the northerly side of said lot 1; thence along a line 20 feet at right angles southerly from and parallel to the northerly line of said lot 1, S. 75° 18' 30" W. 380.88 feet to the westerly line of said lot 1 and at a point S. 7° 09' W. 21.54 feet from the northwest corner of said lot 1; thence along the westerly line of said lot 1, S. 7° 09' W. 298.86 feet to the place of commencement, containing 3.793 acres of land more or less.

Together with the improvements thereon consising of

One (1) frame building known as Pump House of Plant 65;
One (1) frame building known as Pump House of Plant 127;
One (1) frame building known as Pump House of Plant 14;
One (1) frame building known as Pump House of Plant No. 36;
One (1) frame building known as Barn and Garage Building.

Parcel II. That portion of lot 3, Tract No. 1216, as per map recorded in book 18 of maps at page 32, records of Los Angeles County, and more particularly described as follows to wit:

Beginning at a point in the southerly line of said lot 3, tract No. 1216, at a point which is S. 88° 39' W. 20.09 feet from the southeast corner of said lot 3, and running thence N. 3° 56' E. along a line 20 feet west at right angles from and parallel to the easterly line of said lot 3, 207.59 feet to a point; thence S. 88° 39' W. 158.66 feet to a point; thence S. 2° 47' E. 206.77 feet to the southerly line of said lot 3; thence N. 88° 39' E. 134.37 feet to the point of beginning, containing 0.695 acres, more or less:

Together with the wooden covered, concrete reservoir and its appurtenances, situated thereon.

Parcel III. That portion of lot 1, Tract No. 1216, as per map recorded in book 18 of maps at page 32, records of Los Angeles County, and more particularly described as follows, to wit:

Beginning at the northwesterly corner of said lot 1, and running thence along the northerly line of said lot 1, N. 75° 18' 30" E. 373.29 feet to the northeasterly corner of said lot 1; thence S. 13° 28' E. 20 feet; thence along a line 20 feet at right angles southerly from and parallel to the northerly line of said lot 1, S. 75° 18' 30" W. 380.88 feet to the westerly line of said lot 1 and a point S. 7° 09' W. 21.54 feet from the northwest corner of said lot 1; thence N. 7° 09' E. 21.54 feet to the point of beginning, containing 0.171 acres of land, more or less.

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Parcel No. IV. An easement for a right of way 12.50 feet in width through lots 1, 2 and 3 in Tract No. 1216, as per map recorded in book 18 of maps at page 32, records of Los Angeles County, and more particularly described as follows, to wit:

A strip of land 12.50 feet in width and lying and being six and 25/100 (6.25) feet on each side of the following described center line, to wit: Beginning at a point which is N. 13° 28′ W. 67.41 feet and S. 82° 51′ 30″ W. 151.40 feet and N. 82° 13′ 30″ W. 22.84 feet from the most easterly corner of said lot 1 of said Tract No. 1216, and running thence from said point of beginning S. 11° 52½′ E. 300.68 feet to a point; thence S. 8° 05′ E. 1499.44 feet to a point; thence S. 12° 26′ E. 260.15 feet to a point; thence S. 7° 56′ E. 184.85 feet to a point in the north line of reservoir site and which point is N. 3° 56′ E. 207.59 feet and S. 88° 39′ W. 41.95 feet from the southeast corner of said lot 3, Tract 1216, excepting from the foregoing any portion thereof crossing Huntington drive and the Monrovia branch of the Pacific Electric Railway.

Parcel V. An easement for a right of way ten feet in width through lots 1 and 2 of Tract No. 1216, as per map recorded in book 18 of maps at page 32, records of Los Angeles County, more particularly described as follows, to wit:

A strip of land 10 feet in width, lying and being five feet on each side of the following described center line, to wit:

Beginning at a point which is N. 7° 09′ E. 249.88 feet and S. 82° 51′ E. 40 feet and S. 82° 13′ 30″ E. 34.10 feet from the southwest corner of said lot 1, Tract No. 1216, and running thence from said point of beginning S. 51° 52′ 30″ E. 206.60 feet to a point; thence S. 41° 04′ 30″ E. 234.15 feet to the tunnel.

The easements for rights of way described as Parcels IV and V are subject to certain conditions set out in applicant's Exhibit No. 5, filed with this Commission December 1, 1922, at the hearing in the above entitled proceeding.

Pumps, pumping plants and personal property situated upon the above described real property, or used in connection with the operation of the said Van Nuys Water System, and more particularly described as follows, to wit:

(1) That certain pumping plant, known and designated as "Plant No. 65," situated on lot 1 of Tract 1216 in the city of San Marino, county of Los Angeles, State of California, which includes 15-inch Layne & Bowler four-stage turbine pump, connecting leather belt, and the 50 h.p. 440 volt, type C. S., Westinghouse motor, including starter box and switch.

(2) That certain pumping plant, known and designated as "Plant No. 127", situated on lot 1 of Tract 1216 in the city of San Marino, county of Los Angeles, and State of California, which includes one 12-inch Layne & Bowler multi-stage turbine centrifugal pump, connecting belt, and the 20 h.p., 440 volt, three-phase, Westinghouse motor, including starter box and switch.

(3) That certain pumping plant, known and designated as "Plant No. 14", situated on lot 1 of Tract 1216 in city of San Marino, county of Los Angeles and State of California, which includes one 50 h.p., 440 volt, Westinghouse motor and starter box, and one 10 x 12 Ingersoll-Rand air compressor.

(4) All of the domestic and irrigation water transmission and distributing system known as the "Van Nuys Water System" in the cities of San Marino, San Gabriel, East San Gabriel and the territory immediately adjacent thereto, including all mains, gates, service pipes, meters, meter boxes and covers, fish traps, and fittings of every nature, kind and description; together with the right, title and interest of the parties of the first part to all rights of ways, easements and franchises used in the operation and maintenance of said pipes, pipe lines and services in the above described territory.

(5) One Ford motor, Model "T" roadster, converted truck body, motor No. 309172, year 1919.

(6) One express body Oldsmobile, ¾-ton truck car No. 14399, motor No. 16490, year 1920.

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DECISION No. 11351.

IN THE MATTER OF THE APPLICATION OF THE COMPTON WATER AND LIGHTING COMPANY FOR AUTHORITY TO SELL LAND, DISTRIBUTION SYSTEM, MACHINERY, FIXTURES AND RIGHTS AND FRANCHISES, AND OF THE CITY OF COMPTON TO PURCHASE THE SAME.

Application No. 8400.

Decided December 13, 1922.

J. Lee Shepard, for Compton Water and Lighting Company.
A. C. Cooney, City Attorney, for City of Compton.

BY THE COMMISSION.

OPINION.

The above entitled matter is a joint application of the Compton Water and Lighting Company, a public utility corporation, and the city of Compton, a municipal corporation, in which the company asks authorization to sell to the city its public utility water system which furnishes water in and in the vicinity of Compton, Los Angeles County, Calfornia.

A public hearing was held in this matter before Examiner Williams at Los Angeles, of which all interested parties were duly notified and given an opportunity to appear and be heard.

It appears from the testimony that the city of Compton, at a recent special election, voted a bond issue of $75,000 for the purpose of providing funds to purchase the water system of the Compton Water and Lighting Company and make necessary betterments thereto. The agreed purchase price is $21,800, plus all office and plant equipment and all betterments and additions made subsequent to January 1, 1922. Witnesses for seller and buyer testified that the total to be paid would approximate $40,000.

The city of Compton agrees to take over and serve with water all the territory now served or obligated to be served by the Compton Water and Lighting Company; also to assume all obligations, such as contracts and option and refund agreements, entered into prior to the date of transfer.

No one appeared to protest the granting of the application and it appears that the interests of the water users on this system will be better served if the transfer is made.

ORDER.

Joint application having been made by Compton Water and Lighting Company and the city of Compton for authority to transfer certain public utility property, the matter having been heard and being now ready for decision;

It is hereby ordered, that the Compton Water and Lighting Company be and it is hereby authorized to sell and convey to the city of

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Compton its entire water distributing system, plant and equipment used in the service of water to its consumers, together with lands, etc., pertaining thereto, and more particularly described as follows:

Parcel No. 1: The west fifty (50) feet of lot five (5) in block two (2) of Wright's addition to the city of Compton, as per map thereof recorded in the office of the county recorder of Los Angeles County, in book 434, page 377 of official records of said county, together with the pumping plant and all equipment and appurtenances pertaining to the operation thereof now located thereon.

Parcel No. 2: All of its water pipes, lines, connections, meters, service pipes and wells, whether located inside or outside of said city, together with all rights, privileges and franchises owned and used by it in carrying on of its business, subject, however, to certain contracts specifically described on pages 2, 3 and 4 of Exhibit "A" attached to and accompanying the application.

It is hereby further ordered, that the authority herein granted shall be upon the following conditions and none other:

1. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before March 1, 1923, and a certified copy of the instrument of conveyance shall be filed with the Commission by the Compton Water and Lighting Company within thirty (30) days from the date on which it is executed.

3. Within ten (10) days from the date on which the Compton Water and Lighting Company actually relinquishes control and possession of the property herein authorized to be transferred it shall file with the Railroad Commission a certified statement indicating the date on which it relinquished such control and possession.

Dated at San Francisco, California, this thirteenth day of December, 1922.

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DECISION No. 11352.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES-SAN PEDRO TRANSPORTATION COMPANY, INCORPORATED, FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 8460.

Decided December 13, 1922.

Smith and Bryer, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Los Angeles-San Pedro Transportation Company, Incorporated, asks the Railroad Commission to make its order authorizing it to issue and sell, at par, $13.730 of its capital stock and to use the proceeds to pay outstanding notes and accounts payable.

The record shows that Los Angeles-San Pedro Transportation Company, Incorporated, was organized on or about August 15, 1918, with an authorized capital stock of $50,000, divided into 5000 shares of the par value of $10 each, of which, stock of the par value of $36,270 is outstanding. The company is engaged in a general truck, transfer, shipping, receiving and forwarding business, consisting mainly, however, in hauling freight between the business center of the city of Los Angeles and the harbor district at Wilmington and San Pedro. It reports its assets and liabilities, as of November 1, 1922, as follows:

Assets.

Plant and equipment	$83,931 78
Stock	1,033 65
Cash	6,944 54
Accounts receivable	2,074 33
Prepayments	15,334 28
Other debit items	3,708 09
Total assets	$113,026 67

Liabilities.

Capital stock	$36,270 00
Premium on capital stock	2,686 00
Notes payable	26,186 42
Accounts payable	9,278 15
Reserve	20,073 76
Surplus	18,532 34
Total liabilities	$113,026 67

The company reports its total income for the ten months ending November 1, 1922, as $156,444.66, and its expenses, including $14,517.77 for depreciation, as $143,116.13, leaving a net profit for the period of $13,328.53. During the last three years dividends have been paid on the outstanding stock at the rate of eight per cent per annum.

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The application shows that the company has in service nineteen trucks and twelve trailers, the original cost of which is reported as $82,658.38, and the inventory valuation as $73,803.19. Other assets have been inventoried as $9,116.81.

Applicant reports that due to the growth in its business it was found necessary to incur indebtedness to purchase additional equipment and terminal facilities. Its indebtedness, as shown in the foregoing balance sheet, consists of $26,186.42 of short term notes payable and $9,278.42 of accounts payable. It is now proposed to refund this indebtedness, in part, with proceeds from the sale of the stock herein applied for.

We are of the opinion that applicant's assets are ample to support the issue of an additional $13,730 of stock and that its request should be granted, subject to th econditions of the following order:

ORDER.

Los Angeles-San Pedro Transportation Company, Incorporated, having applied to the Railroad Commission for permission to issue $13,730 of stock, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that the money, property or labor to be procured or paid for through such issue of stock is reasonably required by applicant for the purpose specified herein;

It is hereby ordered, that Los Angeles-San Pedro Transportation Company, Incorporated, be and it is hereby authorized to issue and sell 1373 shares ($13,730) of its capital stock and to use the proceeds to pay, in part, its current liabilities referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant may sell the stock herein authorized, at not less than its par value, on or before June 30, 1923.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of December, 1922.

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DECISION No. 11353.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF A PROPOSED CLASSIFICATION OF ACCOUNTS FOR ELECTRICAL CORPORATIONS HAVING ANNUAL OPERATING REVENUES OF MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

Case No. 1845.

Decided December 13, 1922.

ACCOUNTS—UNIFORM SYSTEM—ELECTRIC UTILITY.—In adopting a uniform system of accounts for electric corporations having annual operating revenues of more than $250,000, the Commission held that the classification proposed should be adopted because it conforms to sound accounting principles and practices, and for the further reason that it is substantially the same as the uniform system of accounts recently promulgated by the Federal Power Commission, thus relieving the companies of the necessity of keeping two different sets of accounts.

P. R. Ferguson, for The Southern Sierras Power Company and Holton Power Company.
C. P. Staal, for Southern California Edison Company.
C. P. Cutten and *R. W. Duvall*, by *R. W. Duvall*, for Pacific Gas and Electric Company.
Oscar Moore and *C. A. Luckenbach*, for Los Angeles Gas and Electric Corporation.
L. A. Reynolds, for Great Western Power Company of California.
A. B. Carpenter, for San Joaquin Light and Power Corporation.
B. B. Stith, for Western States Gas and Electric Company.
T. A. Bailey and *J. A. Cannon*, for San Diego Consolidated Gas and Electric Company.
H. F. Jackson, for Sierra and San Francisco Power Company and Coast Valleys Gas and Electric Company.
William V. King, for Federal Power Commission.

MARTIN, *Commissioner.*

OPINION.

This is a proceeding, instituted by the Commission on its own motion, for the purpose of fixing and prescribing a new classification of accounts, hereafter referred to as a uniform system of accounts, for electrical corporations whose annual operating revenues exceed $250,000.

The electrical corporations affected by the proposed change were notified of the hearing held herein and given an opportunity to show cause, if any they had, why the Commission should not adopt and prescribe a uniform system of accounts, similar to that on file in this proceeding and marked "Commission's Exhibit A."

The changes suggested at the hearing have been considered. The Commission's Exhibit A has been reviewed and certain modifications made therein. Such modifications appear in a revised draft of the Commission's Exhibit A, which revised draft, for the purpose of identification, has been marked Commission's "Exhibit A Amended," and is filed in this proceeding.

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A uniform system of accounts for gas corporations, and a uniform system of accounts for water corporations, prescribed by the Commission, are nowi n effect. The general balance sheet, income and profit and loss accounts in the gas and water systems of accounts differ from the general balance sheet, income and profit and loss accounts set forth in the Commission's "Exhibit A Amended." Some corporations coming within the scope of the order contained herein are engaged in electric, gas and water business. It is impractical to require such corporations to prepare, for each class of service, a separate balance sheet, income and profit and loss statement. Therefore, corporations affected by the order herein will be relieved from keeping the balance sheet, income and profit and loss accounts prescribed by the present uniform system of accounts for gas corporations and the present uniform system of accounts for water corporations.

It is urged that corporations who are engaged only in transmitting and distributing electric energy or are engaged in operating only steam electric generating plants and transmitting and distributing electric energy and who also operate gas plants, be permitted during 1923 to keep their accounts and records in accordance with the system of accounts no win effect. There is no material objection to this procedure and the order will permit the companies described in this paragraph either to continue to observe the system of accounts now in effect or keep their electric accounts in accordance with the system of accounts prescribed by this order. They will, however, be required to follow one or the other system of accounts in its entirety, and must, within ten days from the date hereof, notify the Commission as to which system of accounts they will follow during 1923.

It is believed that the system of accounts contained in the Commission's "Exhibit A Amended" conforms to sound accounting principles and practices and that it should be adopted for that reason. It should be adopted for the further reason that it is substantially the same as the uniform system of accounts recently promulgated by the Federal Power Commission and, therefore, but one set of books of accounts need be kept to comply with the requirements of this Commission and the Federal Power Commission.

I herewith submit the following form of order:

ORDER.

A public hearing having been held in the above entitled matter, and the Commission having given due consideration to the evidence submitted at such hearing;

It is hereby ordered and directed, that all electrical corporations having annual operating revenues in excess of $250,000, and subject to the jurisdiction of the Railroad Commission, except such electrical cor-

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porations as are mentioned in subdivision (*a*) of this order, must, on and after January 1, 1923, keep their accounts and records in accordance with the system of accounts contained in the Commission's "Exhibit A Amended," filed in this proceeding, which uniform system of accounts is hereby adopted and prescribed by the Railroad Commission for electrical corporations described in this paragraph; provided

(*a*) That electrical corporations which operate only steam generating plants, transmission and distribution systems, or which operate only transmission and distribution systems and which also operate gas plants, may, if they notify the Commission within ten days from the date hereof, keep their accounts and records during 1923 in accordance with the systems of accounts now in effect.

It is hereby further ordered, that the electrical corporations which, on and after January 1, 1923, are directed to keep their accounts and records as indicated in the Commission's "Exhibit A Amended," be relieved, on and after January 1, 1923, from keeping accounts and records in accordance with the uniform system of accounts for electrical corporations now in effect; and be further relieved from keeping the balance sheet, income and profit and loss accounts prescribed by the uniform system of accounts for gas corporations and by the uniform system of accounts for water corporations adopted by the Commission and now in effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of December, 1922.

DECISION No. 11355.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING IT TO ISSUE AND TO SELL CERTAIN OF ITS GENERAL REFUNDING SERIES "B" SIX PER CENT BONDS.

Application No. 8272.

Decided December 13, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 11038, dated September 29, 1922, authorized Midland Counties Public Service Corporation to issue and sell, at not less than 95.65 per cent of face value, $396,000 of its general refunding series "B" six per cent bonds.

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The order of the Commission permits the company to use the proceeds from the sale of $163,323.68 of such bonds to finance in part construction expenditures made prior to August 31, 1922, but provides that the remaining proceeds be placed in a special deposit and expended only as authorized by the Commission in supplemental orders.

In a supplemental petition filed in the above entitled matter on November 28, 1922, the company shows that up to October 31st it has made expenditures or incurred indebtedness in the amount of $27,581.41 for the purpose of providing necessary additions, extensions, improvements and betterments to its system which have not been paid or provided for by the issue of stock or bonds.

The company under its general refunding mortgage is entitled to have bonds certified up to seventy-five per cent of the cost of additions and betterments. It therefore asks permission at this time to use the proceeds from the sale of $20,686.05 of the bonds authorized by Decision No. 11038 to finance in part the expenditures referred to herein.

The Commission has given consideration to applicant's request and believes it should be granted as herein provided; therefore

It is hereby ordered, that Midland Counties Public Service Corporation be and is hereby authorized to use the proceeds from the sale of $20,686.05 of the bonds authorized by Decision No. 11038, dated September 29, 1922, to finance in part construction expenditures made prior to October 31, 1922, and referred to herein.

It is hereby further ordered, that the order in Decision No. 11038, dated September 29, 1922, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this thirteenth day of December, 1922.

DECISION No. 11356.

IN THE MATTER OF THE APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF CERTAIN STOCK.

Application No. 2073.

Decided December 13, 1922.

BY THE COMMISSION.

SEVENTH SUPPLEMENTAL ORDER.

The Railroad Commission, on February 14, 1916, by Decision No. 3099 (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 196), authorized Death Valley Railroad Company to issue and sell $23,900 of its capital stock for the purpose of retiring, on March 1,

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1916, fifty of its outstanding bonds of the face value of 100 pounds sterling each. In its decision, the Commission indicated that it would make supplemental orders from time to time granting applicant permission to sell its stock for the purpose of retiring bonds without necessitating the filing of a new formal application or the holding of a formal hearing every year.

The record shows that pursuant to the authority granted in Decision No. 3099, and in the various orders supplemental thereto, the company has issued and sold $202,400 of its stock and has used the proceeds in retiring 435 bonds, of the face value of 100 pounds sterling each, which matured on or before March 1, 1921.

The company reports 277 bonds now outstanding of the face value of 100 pounds sterling each, of which 100 bonds matured March 1, 1922, 110 will mature March 1, 1923, and 67 on March 1, 1924. It asks permission, in a supplemental petition filed in the above entitled matter on December 5th, to issue and sell at par, such an amount of its unissued stock, which is reported at $99,100, as will be necessary, when the proceeds thereof are used in conjunction with its sinking fund, to pay off and retire at maturity all of its outstanding bonds.

The Commission has given consideration to applicant's request and believes it should be granted as herein provided; therefore

It is hereby ordered, that Death Valley Railroad Company be and it is hereby authorized to issue and sell from time to time, at not less than par, its capital stock in amount not exceeding $99,100 and to use the proceeds in retiring at maturity, at the rate of exchange then prevailing, the 277 first mortgage 5 per cent sterling sinking fund bonds referred to herein; provided

That applicant keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the order in Decision No. 3099, dated February 14, 1916, as amended, shall remain in full force and effect except as modified by this seventh supplemental order.

Dated at San Francisco, California, this thirteenth day of December, 1922.

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DECISION No. 11357.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER FOUR HUNDRED NINTY-NINE OF THE STATE STATUTES OF NINTEEN HUNDRED ELEVEN AS AMENDED BY CHAPTER SIX HUNDRED OF THE STATE STATUTES OF NINTEEN HUNDRED FIFTEEN, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 13, 1922.

BY THE COMMISSION.

TWENTY-SECOND SUPPLEMENTAL ORDER. SAN DIEGO ELECTRIC RAILWAY COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and it is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of San Diego Electric Railway Company and has found a total of 1942 infractions of said act, and certain other hazardous conditions which should be eliminated, as shown in detail upon copies of the field reports of the inspection, which have been furnished San Diego Electric Railway Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for San Diego Electric Railway Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before March 1, 1923;

It is hereby ordered, that the time during which San Diego Electric Railway Company may reconstruct its overhead electric lines to conform to the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to March 1, 1923, provided that as to certain infractions listed as "technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before March 1, 1923, San Diego Electric Railway Company complete the reconstruction of its overhead

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electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this thirteenth day of December, 1922.

DECISION No. 11359.

IN THE MATTER OF THE APPLICATION OF ETNA DEVELOPMENT COMPANY, A CORPORATION, FOR AN ORDER READJUSTING AND FIXING ITS RATES AND CHARGES FOR WATER SERVICE IN THE TOWN OF ETNA, CALIFORNIA.

Application No. 8293.

Decided December 15, 1922.

Horace V. Ley, for Applicant.
James M. Allen, for City of Etna.

BY THE COMMISSION.

OPINION.

In this proceeding Etna Development Company, an incorporated public utility, asks for an order of the Commission authorizing an increase in the rates charged for water supplied its consumers in Etna, Siskiyou County, and vicinity. The application as filed alleges in effect that the rates at present charged were established by this Commission in its Decision No. 7663, in Application No. 4517, and that the revenue derived therefrom has been noncompensatory and is inadequate to return to applicant the necessary and reasonable annual charges on the system.

A public hearing was held in this proceeding before Examiner Satterwhite at Etna on November 9, 1922.

At the hearing applicant amended its application to correct certain misstatements which had inadvertently been made therein. These occur particularly in paragraphs 5, 6, 8 and 9 of the application and refer to the present rates in effect as being those fixed in this Commission's Decision No. 7663, in Application No. 4517. The application was amended to read to the effect that the rates at present being charged are those established in Decision No. 2789, rendered September 30, 1915, in Application No. 1868. Applicant admitted that the increased rate schedule in said Decision No. 7663, while authorized to become effective by the Commission's supplemental Decision No. 10691, had not been accepted or put into effect.

As stated above, this applicant furnishes water service in and in the vicinity of the city of Etna, and reference is made to the above men-

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tioned decisions for the history and description of the system. The evidence shows that the average number of consumers on the system, so far in 1922, has been 132, but that during the past few years there has been some decrease in the number of consumers served and in the quantity of water used.

A field investigation was recently made by Mr. H. A. Noble, one of this Commission's hydraulic engineers, and his report compiled from the data obtained was submitted at the hearing. Included therein is an appraisal, as of November 1, 1922, showing the total estimated original investment in used and useful property to be $25,385, and the 6 per cent sinking fund replacement annuity as $388. The Commission established a rate base of $22,251, as of June 7, 1920, in its Decision No. 7663. The estimate presented by Mr. Noble was obtained by adjusting the previous rate base for retirements and additions in the system since June 7, 1920, as shown by the records of the company. No other appraisal was submitted in this proceeding.

In the matter of the expense necessary for maintaining and operating this system, Mr. Noble presented an estimate based upon the cost of these items in the past. This estimate allows for a reasonable sum to cover unusual and extraordinary expenses not recurring at regular intervals, and assumes that careful but reasonable economies will be effected in the conduct of the affairs of this applicant which have not at all times been practiced in the past. The Commission is of the opinion, after considering all the evidence submitted on the subject, that the estimate presented by Mr. Noble is ample, and will therefore include the sum of $1,850 in the annual charges as the fair cost of operation and maintenance.

Based upon the foregoing, the annual charges to which this applicant is properly entitled are as follows:

Return upon $25,385 at 8 per cent	$2,030 00
Replacement annuity	338 00
Maintenance and operation expense	1,850 00
Total annual charges	$4,268 00

The revenues reported by this utility have been as follows: In 1919, $2,901.94; in 1920, $3,671.25; in 1921, $3,077.97.

From the above showing it appears that the Etna Development Company is entitled to an increased annual revenue from its water operations. The schedule of rates set out in the following order is designed to produce the amount of the above annual charges and at the same time more equitably distribute the charges among the various classes of consumers than did the rate schedule heretofore in effect.

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ORDER.

Etna Development Company having applied to this Commission for an order authorizing it to increase the rates charged for water service, a public hearing having been held and the matter being submitted for decision:

It is hereby found as a fact that the present rates of the Etna Development Company, in so far as they differ from the rates herein set out, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged by said company for the service of water to its consumers.

And basing its order on the foregoing finding of fact and the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Etna Development Company be and it is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates, said rates to be charged for all service rendered subsequent to December 31, 1922:

RATE SCHEDULE.

Monthly flat rates:

1. For residences and tenements occupied by single families, of 4 rooms or less	$1 10
For each additional room up to and including ten (10) rooms	10
For additional rooms over ten in residences occupied by single family,	no charge
Additional for each flush toilet or bath tub	20
2. For each private barn with not more than two horses or cows	50
For each additional horse or cow	20
3. Private boarding houses—additional to the residence rate for each roomer or boarder	10
4. Irrigation of lawns, shrubbery, trees, garden, etc., per 100 square feet of surface irrigated, chargeable for six consecutive months:	
For 2000 square feet or less	035
From 2000 to 7000 square feet	02
All over 7000 square feet	01
5. Hotels and lodging houses:	
For dining room	2 00
For each bedroom with water tap	20
For each bedroom without water tap	10
For each private bath room	25
6. For one public flush toilet in hotels, lodging houses and public places	75
For each additional flush toilet	35
7. For one public bath in hotels, lodging houses or bathing establishments	1 25
For each additional public bath tub	50
8. Public urinals in hotels, pool rooms or any public place, for each bowl where a drain is used	50
With automatic trap flusher, each	75
9. Suites with water tap utilized as offices, in upper stories of buildings, each	50
10. Livery stables and stock yards, average of six animals or less	3 50
For each additional animal	20
11. Barber shops, for single chair	1 00
For each additional chair	50

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12. Public halls, clubs or lodge rooms	1 00
13. Public garages, average 4 autos or less	2 00
For each additional auto	50
14. Soda fountains, soft drink places and ice cream or lunch parlors either alone or in connection with other business	$1 25 to 2 50
15. Drug stores	1 40
16. Photograph galleries or where water is used for photo developing and printing, in addition to the store rate	75
17. Creameries, laundries, slaughter houses, bottling works, meat markets, ice and cold storage plants, according to the use of water	$2 00 to 8 00
Charge in addition as per (26) for water motors where used.	
18. Blacksmiths, wagon and machine shops	1 00
19. Restaurants, chop houses or cafes	1 50
20. Doctors' and dentists' offices, according to number of rooms and whether or not water is used for flushing or other purposes	$1 00 to 3 00
21. For small stores or business places not otherwise listed	75
22. For large stores or business places not otherwise listed	$1 00 to 2 25
23. Living quarters in connection with stores or places of business	50
24. Additional charge for each bath tub or flush toilet in (10) to (22) inclusive, except where for public use	20
25. Public drinking fountains in any place	60
26. Water motors, depending on use of water	$0 75 to 10 00

Public use:

1. For service of water for the extinguishment of fires, which may be drawn from the 15 fire plugs at present in service, which are the property of the town, per month	$12 00
For each additional fire plug or hydrant which may be installed, per month	70
2. Water for sprinkling of roads and streets by the town or county and for flushing of sewers, by the computed or measured quantity of water used, per 100 cubic feet	08
3. Public schools, per month:	
For each flush toilet	50
For each shower or bath tub	40
For each wash basin and drinking fountain	25

Meter rates:

1. Monthly minimum payments:	
For ¾- or §-inch meters	$1 00
For 1-inch meter	1 75
For 1½-inch meter	2 50
For 2-inch meter	3 25
2. Monthly quantity rates:	
For use from 0 to 2000 cubic feet, per 100 cubic feet	12
For use over 2000 cubic feet, per 100 cubic feet	08

It is hereby further ordered, that December 31, 1922, be and the same is hereby designated as the effective date of this order.

Dated at San Francisco, California, this fifteenth day of December, 1922.

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DECISION No. 11361.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER FOUR HUNDRED NINETY-NINE OF THE STATUTES OF 1911, AS AMENDED BY CHAPTER SIX HUNDRED OF THE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 15, 1922.

By THE COMMISSION.

TWENTIETH SUPPLEMENTAL ORDER.
STOCKTON ELECTRIC RAILROAD COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines, subject to the provisions of said act, may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Stockton Electric Railroad Company and has found a total of 548 infractions of said act, and certain other hazardous conditions which should be eliminated, as shown in detail upon copies of the field reports of the inspection, which have been furnished Stockton Electric Railroad Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Stockton Electric Railroad Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before April 1, 1923;

It is hereby ordered, that the time during which Stockton Electric Railroad Company may reconstruct its overhead electric lines to conform to the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to April 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before April 1, 1923, Stockton Electric Railroad Company complete the reconstruction of its over-

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head electric lines to eliminate all infractions of chapter 499, Statutes of 1911 as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this fifteenth day of December, 1922.

DECISION No. 11363.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN TERMINAL WAREHOUSING AND STORAGE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF ONE THOUSAND SEVEN HUNDRED FIFTY SHARES OF CAPITAL STOCK.

Application No. 8332.

Decided December 15, 1922.

SECURITIES—WAREHOUSE UTILITY—ORGANIZATION EXPENSES.—The Commission held that $56,000 of stock out of a proposed issue of $175,000 for organization purposes was unwarranted and wholly unjustified. The order authorizes applicant to issue and sell at not less than par $130,000 of stock and to expend an amount not exceeding 17½ per cent of the proceeds to pay bona fide and reasonable organization and incorporation expenses, attorneys fees and stock selling expenses.

Kenneth E. Matot, for Applicant.

BY THE COMMISSION.

OPINION.

The Southern Terminal Warehousing and Storage Corporation asks permission to issue 1750 shares of its capital stock of the total par value of $175,000 for the purposes and consideration hereinafter mentioned.

A public hearing was held before Examiner W. R. Williams in Los Angeles on November 10, 1922. Since the hearing, additional information has been filed and the matter is now ready for decision.

The Southern Terminal Warehousing and Storage Corporation was organized on or about September 8, 1922, with an authorized capital stock of $250,000, divided into 2500 shares of the par value of $100 each. Applicant asks permission to issue and deliver $15,000 par value of its stock to Kenneth E. Matot in payment for legal services; $15,000 par value to L. E. Bailey, D. R. Bailey and W. B. Moorhead in payment for services in preparing tariffs and looking after the organization of the corporation; and $15,000 par value to A. M. Horne as first payment under a contract for the delivery of property and a warehouse building, and to issue and sell $130,000 par value at not less than $80 per share net. The company proposes to offer the $130,000 of stock to the public at its par value, but asks permission to expend 20 per cent of the proceeds in the payment of commissions; to use $100,000

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to pay the balance due A. M. Horne under the contract with him, and to use the remainder of the proceeds, $4,000, for working capital.

There is filed in this proceeding a copy of an agreement between A. M. Horne on the one hand, and L. E. Bailey, D. R. Bailey and W. B. Moorhead on the other, by the terms of which A. M. Horne has agreed to sell to the others certain lots located in the city of San Bernardino and to construct upon such lots a No. 1 Class "A" reinforced concrete fireproof warehouse building 100 feet by 125 feet in dimension, with a foundation sufficient to carry a four-story structure, said building to be completed with a ten-foot basement and first floor, but not including a sprinkler system. A. M. Horne has agreed to deliver the lots and building to the buyers for $115,000, which, according to the contract, is payable as follows: $10 upon the execution and delivery of the agreement; $15,000 in capital stock of The Southern Terminal Warehousing and Storage Corporation as soon as its issue is authorized by the Railroad Commission; 20 per cent of the balance when the foundaton of the building is completed; 20 per cent when the walls have been erected; 20 per cent when the roof has been completed; 20 per cent when the building has been accepted by the buyers, and the balance within 30 days after completion. L. E. Bailey, D. R. Bailey and W. B. Moorhead have assigned their interests in this agreement to The Southern Terminal Warehousing and Storage Corporation

The plans of the warehouse are filed with the application. It is alleged that the lots and building, when completed, will be worth approximately $150,000, although they will have cost applicant $115,000. The testimony of A. M. Horne shows that he recently has acquired these properties, which consist of 13 lots and occupy one-half of a city block, for $18,500, and that he can construct the warehouse called for in the contract for approximately $93,775. The sum of these two items is $112,275, or an amount slightly less than the agreed purchase price. At the hearing applicant introduced some testimony tending to show that, based on a recent sale of real property in the vicinity, the value of the lots which it intends to purchase had increased.

Kenneth E. Matot, attorney for applicant, has filed an affidavit in support of the request of applicant to issue to him $15,000 of stock in payment for services in incorporating the corporation and in looking after its legal affairs for a period of one year. He alleges that for a period of nearly three months he has been engaged in making preliminary studies and in organizing the company and that he has expended approximately $500 in cash. He further alleges that the incorporators are willing to pay him $15,000 in cash for his services, but that he has agreed to accept in payment for such services $15,000 in stock.

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L. E. Bailey, D. R. Bailey and W. B. Moorhead have also filed an affidavit in which they allege that for a period of more than three months they have been engaged in organizing The Southern Terminal Warehousing and Storage Corporation, that they were instrumental in securing the option and making the contract to purchase the property and building in San Bernardino for $115,000, that they have completed a schedule of rates which they allege would have cost the corporation in excess of $35,000 to secure in the absence of any existing rate schedules, and that they have expended approximately $500 in cash. In compensation for their time, labor and money expended, they request the applicant to issue to them $15,000 of stock. While the proposed schedule of rates has not yet been filed with the Commission, information submitted at the hearing indicates that it does not differ materially from other warehouse rate schedules. It is common knowledge that warehouse tariffs are on file with the Commission and are public documents. Any one interested in organizing a warehouse corporation has access to such tariffs and there appears to be no need for incurring a great amount of labor or expense in preparing such a rate book. The allegation that the preparation of a tariff schedule would have cost the company $35,000 had conditions been different is not, in our opinion, a sufficient showing for an order authorizing the issue of $15,000 in stock.

Not only does applicant ask permission to issue $30,000 of stock in payment for legal and certain organization costs, but it also asks to expend 20 per cent of the proceeds realized from the sale of $130,000 for value of stock, to pay the cost of selling such stock. Thus, in effect, applicant requests permission to issue $56,000 of stock for organization purposes. We believe that the issue of so large an amount of stock for the purposes indicated is unwarranted and wholly unjustified. The order herein will permit applicant to issue and sell, at not less than par, $130,000 of stock and to expend an amount not exceeding 17½ per cent of the proceeds from the sale of such stock, to pay bona fide and reasonable organization and incorporation expenses, attorneys' fees and stock selling expenses.

The record shows that the company intends to engage in a general warehousing, commission and brokerage business in the city of San Bernardino. Applicant alleges that there is no bonded warehouse open to the public for general storage in the district to be served by applicant. It is thought that the company's net revenue should approximate $60,000 a year, and that handling charges should be sufficient to take care of overhead and operating expenses.

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ORDER.

The Southern Terminal Warehousing and Storage Corporation having applied to the Railroad Commission for permission to issue $175,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be permitted to issue only $145,000 of stock at this time and that the money, property or labor to be procured by such issue is reasonably required by applicant;

It is hereby ordered, that The Southern Terminal Warehousing and Storage Corporation be and it is hereby authorized to issue 1450 shares ($145,000) of its capital stock on or before June 30, 1923.

The authority herein granted is subject to the following condition:

1. Of the stock herein authorized, $15,000 (150 shares) may be delivered to A. M. Horne in part payment of the properties proposed to be acquired from him and referred to hereinabove.

2. The remaining stock herein authorized, $130,000 (1300 shares) may be sold for cash at not less than par and the proceeds used for the following purposes:

(*a*) An amount not exceeding 17½ per cent of the proceeds may be used to pay bona fide and reasonable organization and incorporation expenses, attorney fees and stock selling expense.

(*b*) An amount not exceeding $100,000 of the proceeds may be delivered to A. M. Horne in part payment for the properties described in this application.

(*c*) The remainder of the proceeds may be used for working capital.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Applicant shall file with the Commission a copy of its prospectus, a copy of its stock subscription agreement and a copy of each and every agreement under the terms of which an individual or individuals are employed to act as agents or salesmen for applicant in selling the stock herein authorized.

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It is hereby further ordered, that the application in so far as it relates to the issue of $30,000 of stock be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this fifteenth day of December, 1922.

DECISION No. 11366.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER FOUR HUNDRED NINETY-NINE OF THE STATUTES OF 1911, AS AMENDED BY CHAPTER SIX HUNDRED OF THE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 15, 1922.

BY THE COMMISSION.

TWENTY-FIRST SUPPLEMENTAL ORDER. PACIFIC COAST RAILWAY COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provsions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Pacific Coast Railway Company and has found a total of 243 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Pacific Coast Railway Company, or its agents, by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Pacific Coast Railway Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before March 1, 1923;

It is hereby ordered, that the time during which Pacific Coast Railway Company may reconstruct its overhead electric lines to conform to the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to March 1, 1923, provided that as to certain infractions listed as "Technical, prior

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to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before March 1, 1923, Pacific Coast Railway Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this fifteenth day of December, 1922.

DECISION No. 11367.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER FOUR HUNDRED NINETY-NINE OF THE STATUTES OF 1911, AS AMENDED BY CHAPTER SIX HUNDRED OF THE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided December 15, 1922.

BY THE COMMISSION.

TWENTY-THIRD SUPPLEMENTAL ORDER. CENTRAL CALIFORNIA TRACTION COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, vested with authority to grant additional time during which all overhead electric lines subject to the provisions of said act may be reconstructed in accordance therewith, and is further charged with the duty of seeing that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the overhead electric lines of Central California Traction Company and has found a total of 552 infractions of said act, and certain other hazardous conditions which should be eliminated as shown in detail upon copies of the field reports of the inspection which have been furnished Central California Traction Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will be reasonably possible for Central California Traction Company to remove said infractions and hazardous conditions and bring its entire system into compliance with said chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, before June 1, 1923.

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It is hereby ordered, that the time during which Central California Traction Company may reconstruct its overhead electric lines to conform to the provisions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, be and the same is hereby extended to June 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before June 1, 1923, Central California Traction Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical, since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this fifteenth day of December, 1922.

DECISION NO. 11368.

JOHN B. SEXTON

vs.

WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, AND EL DORADO WATER COMPANY, A CORPORATION.

Case No. 1550.

Decided December 16, 1922.

BY THE COMMISSION.

OPINION AND ORDER DENYING REHEARING.

An application for rehearing was filed herein November 26, 1921, by the Western States Gas and Electric Company, seeking the revocation of the order contained in our Decision No. 9698, rendered November 4, 1921. This order directed the El Dorado Water Company to permit the delivery, and the defendant, Gas and Electric Company, to deliver to complainant for mining uses, water in the amount of 40 miner's inches per day of 24 hours every third day, or its equivalent of 40 miner's inches for eight hours each day. By the terms of the order, this water is to be taken "from the present supply of 1800 miner's inches available for public use through the ditch of the defendant, Western States Gas and Electric Company, known as the El Dorado ditch, referred to and described in the contract executed by defendants and approved by this Commission in its Decision No. 6436."

The principal points urged in the application for rehearing are that the requirement for the delivery of water to complainant for mining

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uses interferes with the terms of the contract above referred to, and also, that it necessitates the diversion of this amount of water from its present public utility use for hydro-electric purposes. Both of these things, it was contended, would be inconsistent with the company's legal obligations. A careful review of the terms of the contract and proceedings relative thereto leads to the belief that the terms of our decision and order herein, as to which rehearing is sought, have been misunderstood in so far as they relate to the provisions of this contract. A brief explanation should clarify any possible ambiguity in the language of the order.

As above shown, this order directed that the water to be delivered to complainant be taken "from the present supply of 1800 miner's inches available for public use" through the El Dorado ditch. This 1800 miner's inches is the total amount which the defendant electric company, by the terms of the contract in question, agreed to furnish to the defendant water company, for distribution to the public. This transaction is more fully described in the opinion preceding the order. It is therein set forth that, under the contract, the defendant electric company agreed to deliver to the water company "40 second-feet or 1600 miner's inches for irrigation use, and 5 second-feet, or 200 miner's inches, for mining use." It also appears from the contract that 1600 miner's inches was the maximum delivery for irrigation and domestic uses, subject to certain limitations and conditions relative to the available supply from certain natural and artificial sources. During certain months of the year, the amount of water to be delivered is much less than 1600 miner's inches for irrigation or domestic uses. Delivery of water for mining use is covered by a separate and distinct paragraph of the contract, as follows:

With reference to water for mining use, hereinbefore many times referred to, IT IS AGREED that the Consumer shall take over and assume the obligations of the Company as a water utility in connection with the service of water for mining use; provided, that the Consumer expressly agrees not to permit the increase of mining use or to take on any consumers for mining use in excess of those supplied with water therefor by the Company during the year 1918, unless compelled to do so by the final order of judgment of the Railroad Commission of the State of California or any court of competent jurisdiction. If demand shall be made on the Consumer for water for mining use, the Consumer agrees to resist such demand, to notify the Company thereof, and to permit the Company to act with it in resisting such demand and to be represented as a party in any litigation, whether before the Courts or the Railroad Commission of the State of California, in resisting the same; and the consumer further agrees to reduce and eliminate all mining use so far as may be in its power. Subject to these limitations, the Company agrees to deliver to the Consumer, under rates, method of measurements and terms of payment stated herein, for mining use, such water as may be required for said purposes, plus thirty-three and one third (33⅓) per cent thereof, said thirty-three and one-third (33⅓) per cent being fixed and determined by the parties for the purpose of determining the amount of water to be delivered to the Consumer, for said purposes, as the loss in transmission from said measuring weir to the point of measuring the delivery for such mining use. It is, however, expressly agreed between the parties that the water to be delivered to Consumer at said measuring weir for resale for

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mining use shall not, under any circumstances, exceed the maximum of five (5) cubic feet per second.

The foregoing shows a definite intention on the part of the defendant electric company to reserve 200 miner's inches for the purpose of meeting its obligations as a public utility in the distribution of water for mining uses. Any subsequent use of its entire available supply of water for hydro-electric purposes is, of necessity, subject to this reservation. This utility having neither sought nor obtained formal authorization of the Commission to withdraw from public service in the sale and distribution of water for mining uses, it cannot be concluded that the use, subsequent to the contract, of all surplus water for hydro-electric purposes, during a time when the company has not been called upon to deliver, for mining uses, the amount reserved under the terms of the contract, has, in effect, terminated the company's obligations as a public utility in this regard. Also, the requirement that the two defendants herein deliver to the complainant, as one of the general public entitled to the service of water for mining uses, an amount of water not in excess of the quantity reserved under the terms of the contract for mining uses, is not inconsistent with the provisions of the contract. These defendants were both parties to the contract. They have agreed, in substance, that the water company shall take over and assume the obligations of the electric company as a water utility in connection with the service of water for mining use, and that for this purpose the electric company will provide and deliver an agreed amount of water to the water company.

It is immaterial that the point of service to complainant is above the Fourteen-Mile House, below which the distributing system was transferred to the water company by the electric company. As pointed out in our prior decision, we do not believe that it is proper to construe this contract as having effectually cut off the supply of water for mining uses from the complainant or other members of the public generally entitled to participate in this use, above the Fourteen-Mile House, in favor of the possible future requirements of other members of the public below the Fourteen-Mile House.

On the other hand, all members of the public entitled to service of water for mining uses can participate in this service only to the extent of the available supply. This supply we understand to be 200 miner's inches as fixed and limited by the provisions of the contract and the subsequent use by the defendant electric company of all surplus water for hydro-electric purposes. Our prior order, therefore, in directing that the supply delivered to the complainant shall be taken from the amount of 1800 miner's inches available for public use, must be deemed to mean that this water is taken out of the reserved 200 miner's inches,

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or 5 cubic feet per second for mining uses which is included in the total of 1800 miner's inches indicated in the order.

In view of the considerations above set forth, we conclude that the application for rehearing should be denied.

ORDER.

An application for rehearing having been filed herein on November 26, 1921, by the defendant, Western States Gas and Electric Company, and oral arguments having been heard thereon, February 9, 1922, the matter submitted, and the Commission after a full consideration of the points presented being of the opinion that the grounds set forth in support of the application are insufficient to justify a rehearing;

It is hereby ordered, that said application of the Western States Gas and electric Company filed herein November 26, 1921, be and the same is hereby denied.

Dated at San Francisco, California, this sixteenth day of December, 1922.

DECISION No. 11369.

IN THE MATTER OF THE APPLICATION OF FEDERAL TELEGRAPH COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIFTY THOUSAND SHARES OF ITS PROPOSED INCREASED CAPITAL STOCK.

Application No. 8374.

Decided December 22, 1922.

Hiram W. Johnson, Jr., for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Federal Telegraph Company asks permission to issue and sell at $7.50 per share 50,000 shares ($500,000 par value) of its common capital stock and use the proceeds to pay in part for the construction of radio stations and provide itself with funds to pay notes and accounts payable.

Applicant has an authorized stock issue of $2,500,000, divided into 250,000 shares of the par value of $10 each. Its board of directors have passed a resolution increasing applicant's stock from $2,500,000 to $3,500,000, divided into 350,000 shares of $10 each. The stockholders at a meeting held on December 20th authorized an increase in applicant's stock to $3,500,000.

By Decision No. 8380, in Application No. 6258, the Railroad Commission authorized applicant to issue and sell $500,000 of first mortgage 8 per cent serial gold notes for the purpose of constructing four wireless telegraph stations. At the time Application No. 6258 was presented

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the cost of the stations was estimated at $441,413. Applicant now reports that the cost of the stations exceeded the original estimate by $206,000, and that such increased cost was due to the engineers being unable to accurately estimate the construction cost because of the unique and extraordinary work that had to be done in order to complete properly the stations. To finance temporarily the increased cost of the stations, applicant has issued notes and used its working capital.

It is of record that applicant has expended $218,349.23 in obtaining permission from the Chinese government to construct radio stations in China. These stations, however, will not be constructed by applicant, but by the Federal Telegraph Company of Delaware, a new corporation. The new corporation will reimburse applicant on account of the expenditure in the amount of $169,972.68. The remainder of the preliminary expense will have to be paid by applicant. The testimony shows that applicant is in need of $346,660.54 cash to pay notes and accounts payable and to reimburse its treasury. The $346,660.54 is made up of the following items:

Notes payable	$205,000 00
Accounts payable	93,283 99
Net preliminary expenses to secure permission to construct radio stations in China	48,376 55
Total	$346,660 54

Applicant will offer the $500,000 of stock to its stockholders at $7.50 per share. Each stockholder will be permitted to acquire one share of the new stock for each five shares of stock now owned by each stockholder. Any stock that will not be acquired by stockholders will be purchased by Stephens and Company, who have underwritten the sale of the stock for a commission of 50 cents per share. As a result of this underwriting agreement, applicant will net from the sale of the stock $7 per share. This net selling price is lower than the Commission ordinarily authorizes. The record in this case, however, justifies a departure from the principles announced in former decisions and the granting of this application.

I herewith submit the following form of order:

ORDER.

Federal Telegraph Company having applied to the Railroad Commission for permission to issue $500,000 par value of its common capital stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant;

It is hereby ordered, that Federal Telegraph Company be and it is hereby authorized to issue and sell, on or before June 30, 1923, at not less than $7 per share net, 50,000 shares ($500,000 par value) of its

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common stock and use the proceeds to reimburse its treasury on account of earnings expended for additions and betterments and to discharge notes and accounts payable incurred for the purpose of paying for the additions and betterments referred to in this application; provided

That Federal Telegraph Company will keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of December, 1922.

DECISION No. 11370.

IN THE MATTER OF THE APPLICATION OF ELIAS V. ROSENKRANZ AND TITLE INSURANCE AND TRUST COMPANY, A CORPORATION, AS EXECUTORS OF THE ESTATE OF EMIL FIRTH, DECEASED, FOR AUTHORITY TO DISCONTINUE A PUBLIC UTILITY SUPPLYING WATER TO ARLINGTON SQUARE TRACT, LOS ANGELES CITY, CALIFORNIA, OR INCREASE ITS RATES.

Application No. 8346.

Decided December 22, 1922.

Elias V. Rosenkranz, for Applicants.

BY THE COMMISSION.

OPINION.

In the above entitled application, Elias V. Rosenkranz and Title Insurance and Trust Company, a corporation, as executors of the estate of Emil Firth, deceased, ask authority to discontinue a public utility water system known as the Arlington Square Water System, unincorporated, of which Emil Firth was sole owner. The Arlington Square Water System was installed to aid in the sale of real estate and supply water to tracts 809 and 2195, Los Angeles County, California. Applicants allege in effect that all of the territory now served is duly and properly a part of the municipality of Los Angeles; that upon petition of the residents of the above designated tracts, said municipality has installed a complete system of mains and pipe lines for the purpose of supplying water to all of the territory heretofore served by applicants; that all of applicants' consumers can be supplied from the municipal water system of the city of Los Angeles; that applicants

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have already lost a large number of consumers, thus decreasing the revenue to such an extent that, to continue water service, an increased rate for service to the remaining consumers will be required in order to meet the cost of operating the system.

A public hearing in this matter was held at Los Angeles before Examiner Williams, of which all of applicants' consumers were notified and given an opportunity to appear and be heard.

The testimony shows that in July, 1922, by regular proceedings, all of applicants' territory became annexed to the city of Los Angeles, and on the eighteenth day of September, 1922, the required number of petitioners was obtained to secure the installation of the municipal water system. The mains are now installed and parallel the entire system of applicants, except on two short alleys. Mr. L. M. Anderson, controller of the public service commission, city of Los Angeles, stated that the city is willing and ready to serve any and all consumers on the tracts as soon as they make the proper application for service. This requires the payment of 80 cents a front foot and a connection charge of $15.

The testimony shows that the city of Los Angeles now serves approximately 184 water consumers in the territory in question, whereas applicants serve only 66. Applicants allege that revenues received have become reduced to such an extent that they will be compelled to operate at a greater loss than heretofore has been incurred, the rates remaining unchanged.

No one appeared to protest the granting of this application, and after a careful consideration of the evidence, the conclusion is reached that all the consumers have another and adequate water supply available from the city of Los Angeles at rates considerably lower than those now charged by applicants. It appears unnecessary to require that this system continue in operation under the conditions shown. Neither is it necessary to discuss the question of an increase of rates.

ORDER.

Elias V. Rosenkranz and Title Insurance and Trust Company, a corporation, as executors of the estate of Emil Firth, deceased, operating a small water system furnishing and distributing water to consumers in tracts 809 and 2195, Los Angeles County, California, having made application to this Commission for authority to discontinue water service or increase the rates now charged, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity do not require the continued operation of Arlington Square Water System.

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And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Elias V. Rosenkranz and Title Insurance and Trust Company, a corporation, as executors of the estate of Emil Firth, deceased, be and they are hereby authorized to discontinue the service of water to consumers in tracts 809 and 2195 as above, on March 1, 1923, provided that within ten (10) days from the date of this order said applicants notify each and every consumer in writing of their intention to discontinue service on March 1, 1923; and, further, that within fifteen (15) days of the date of this order they furnish to the Commission an affidavit setting forth the fact that each consumer affected by this order was duly notified of such intention to discontinue service.

Dated at San Francisco, California, this twenty-second day of December, 1922.

DECISION No. 11376.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION FOR AUTHORITY TO DISPOSE OF CERTAIN REAL PROPERTY.

Application No. 8408.

Decided December 22, 1922.

S. M. Haskins, for Applicant.

BY THE COMMISSION.

ORDER.

Los Angeles Railway Corporation asks permission to sell, for the sum of $85,412.50, five parcels of property more fully described in Exhibit "A" filed in this proceeding. In general, the properties which applicant asks permission to sell consist of a gravel pit from which all gravel has been removed and rights of way leading from its lines and those of The Atchison, Topeka and Santa Fe Railway Company to the gravel pit. They are located east of the city of Vernon. It is the intention of the company to sell the properties to the Huntington Land and Improvement Company and to purchase from such company three parcels of land described in Exhibit "B" filed in this proceeding. The property which the company intends to acquire from the Huntington Land and Improvement Company is appraised by D. F. McGarry at $91,060. He has also appraised the properties which the company intends to sell. The appraisements have been made for the Union Trust Company of San Francisco, trustee, under applicant's mortgages.

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It is of record that the properties which applicant desires to sell are no longer necessary for public utility service, and that the properties it intends to acquire can be readily used in connection with its street railway operations and will be so used.

A hearing was had on this matter before Examiner Williams in Los Angeles on November 28th. The Commission has considered applicant's request and believes it should be granted, as herein provided; therefore,

It is hereby ordered, that Los Angeles Railway Corporation be and it is hereby authorized to sell the properties described in Exhibit "A" filed in this proceeding for the sum of $85,412.50; provided, that the price at which applicant is herein authorized to sell the properties be not urged in a rate or other proceeding before the Commission as a measure of the value of properties retained by applicant and similarly situated.

Dated at San Francisco, California, this twenty-second day of December, 1922.

DECISION No. 11386.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL BONDS IN THE AMOUNT OF TEN MILLION DOLLARS FACE VALUE.

Application No. 6425.

Decided December 22, 1922.

BY THE COMMISSION.

SIXTH SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 11107, dated October 14, 1922, authorized Southern California Edison Company to sell $5,160,000 of its general and refunding mortgage bonds, subject to the condition, among others, that the proceeds, other than accrued interest, be deposited with a bank or banks, or with a trust company or trust companies, and expended only for such purposes as the Commission might authorize; and

Whereas, applicant, on December 11, 1922, filed a supplemental petition in the above entitled matter, in which it reports that prior to October 31, 1922, it expended for construction purposes the sum of $867,203.25 which has not been paid or provided for through the issue of stock or bonds; and

Whereas, applicant asks permission to use $867,203.25 of the proceeds obtained from the sale of the $5,160,000 of bonds authorized by

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Decision No. 11107 to finance these expenditures, which are reported in detail in "Exhibit No. 8" filed in this proceeding; and

Whereas, the Commission has given consideration to applicant's request and believes it should be granted as herein provided; therefore,

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use $867,203.25 of the proceeds obtained from the sale of the $5,160,000 of bonds, the sale of which is authorized by Decision No. 11107, dated October 14, 1922, to finance its construction expenditures reported in its Exhibit No. 8 filed in the above entitled matter on December 11, 1922.

It is hereby further ordered, that the order in Decision No. 11107, dated October 14, 1922, as amended, shall remain in full force and effect, except as modified by this sixth supplemental order.

Dated at San Francisco, California, this twenty-second day of December, 1922.

DECISION No. 11391.

IN THE MATTER OF THE APPLICATION OF R. B. YOUNG, DOING BUSINESS AS THE GRIZZLY ELECTRIC COMPANY, FOR PERMISSION TO OPERATE HIS PLANT BY GIVING HALF NIGHT SERVICE.

Application No. 6742.

Decided December 23, 1922.

SERVICE—ELECTRIC UTILITY—CURTAILMENT—IMPROVEMENTS—RATE INCREASES.—Request of applicant to give half night instead of all night service is denied, the Commission holding that the proposed curtailment would not be advisable from the standpoint either of the public service or of the utility. The Commission announced that if contemplated improvements do not result in better support from the community, consideration will be given to an application for authority to increase rates.

R. B. Young, in propria persona.
A. N. Waite, Secretary of Portola Chamber of Commerce, for Consumers.

BY THE COMMISSION.

OPINION.

In this application R. B. Young, operating under the name of Grizzly Electric Company, alleges that under present rates he cannot meet the expenses incidental to the all night operation of his electric generating plant and asks that the Railroad Commission authorize half night service. The plant in question consists of a 100 kilowatt generator, belt-driven by an oil engine, and electricity for lighting purposes is distributed to about 120 consumers in the town of Portola, Plumas County. Service is now furnished from sunset to sunrise.

A public hearing was held before Examiner Satterwhite at Portola on May 27, 1922, at which Mr. Young submitted evidence in support

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of his position, and at which there were also heard many protests from consumers against the proposed reduction in hours of operation. It appeared to be the consensus of opinion at the hearing that from the point of view of consumers it would be better to slightly increase rates than to curtail service.

It was agreed that a member of the Commission's engineering department should make an investigation of the plant and suggested sources of increased revenue and that his report should be submitted to Mr. Waite as a representative of the consumers and to Mr. Young for their comments. This report indicates that in the past service has been unreliable and voltage has been poor, but that at the time of the inspection steps were being taken to improve operating conditions. Past earnings do not appear to have been as large as Mr. Young might reasonably expect, but, in the opinion of our engineer, this is largely due to the inadequate service supplied, and it is very probable that improvement in service will result in an increase in revenue sufficient to yield a satisfactory return. The report, which was submitted to both parties to the hearing, contained the following recommendation:

> In my opinion neither the curtailment of service suggested nor an increase in rates is advisable at the present time either from the standpoint of public service or of the growth and welfare of Mr. Young's system. If Mr. Young operates his system so that good service is supplied and the community does not then give the patronage necessary to result in an adequate return, he should be permitted to increase his rates if he believes that his revenues can be increased in that way, but reasonable service should be given before the community is asked to bear any additional burden.

This conclusion is in harmony with the testimony taken at the hearing and its soundness as a basis for a decision has not been questioned. If Mr. Young fails to continue and complete the work of rehabilitation of plant and improvement of service which he has undertaken, this Commission is ready to provide such relief for consumers as circumstances show to be reasonable, while on the other hand, if improvement in service does not result in the anticipated support from the community and increase in revenue, consideration can be given to an application for authority to increase rates.

ORDER.

R. B. Young, doing business as Grizzly Electric Company, having applied to the Railroad Commission for permission to operate his plant by giving only half night service, a public hearing having been held, the matter being submitted and ready for decision;

It is hereby ordered, that this application be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this twenty-third day of December, 1922.

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DECISION No. 11392.

IN THE MATTER OF THE APPLICATION OF MACLAY RANCHO WATER COMPANY FOR PERMISSION TO ISSUE RENEWAL NOTES.

Application No. 8143.

Decided December 23, 1922.

SECURITIES—WATER UTILITY—UNAUTHORIZED NOTE VOID—REFUNDING.—The Commission held that a note issued by applicant without authority of the Commission is void and that the Commission cannot ratify or approve the issue of a void note. The order authorized applicant to issue a new note to refund the indebtedness represented by the void note.

Alfred S. Cooper, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Maclay Rancho Water Company asks the Railroad Commission to make its order approving the issue of a two and one-half year 6½ per cent note, dated November 18, 1920, in the principal amount of $96,500.

A public hearing was held before Examiner Williams in Los Angeles on December 15, 1922.

Maclay Rancho Water Company was organized on or about January 8, 1896, with an authorized capital stock of $150,000, divided into 15,000 shares of the par value of $10 each, all of which is at present outstanding. The company is engaged in the business of supplying water for domestic, irrigation and other purposes in and about San Fernando, serving about 100 consumers. It reports its assets and liabilities as of December 31, 1921, as follows:

Asset Accounts.

Fixed capital	$164,818 21
Cash and special funds	30,000 00
Accounts receivable	94,725 69
Interest and dividends receivable	625 27
Other current assets	50 00
Miscellaneous investments	63,443 00
Unamortized discount on bonds	9,500 00
Bonds purchased	3,150 00
Assessments due	14,510 00
Corporate deficit	88,538 75
Total asset accounts	$469,350 92

Liability Accounts.

Capital stock	$150,000 00
Assessments on stock	54,000 00
Funded debt	141,500 00
Notes payable	102,865 45
Accounts payable	16,508 21
Interest accrued	4,477 26
Total liability accounts	$469,350 92

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The $96,500 note referred to in this application is included in the $102,865.45 of notes payable contained in the foregoing statement. It appears that this note was issued without authority from the Railroad Commission and was given in renewal of earlier notes representing indebtedness incurred in the purchase of properties. Applicant alleges, however, that it issued the note on November 18, 1920, through inadvertence and that it was unaware that permission from the Commission was necessary. Upon being advised by the Commission that its note was illegally issued, it filed this petition.

Subdivision (*d*) of section 52 of the Public Utilities Act reads in part as follows:

> All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued without an order of the Railroad Commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued with the authorization of the Commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the Commission to contain, shall be void: * * *

We are of the opinion that the note issued by applicant on November 18, 1920, is void under the provisions of the Public Utilities Act and that the Commission can not ratify or approve the issue of a void note. The order herein will therefore authorize applicant to issue a $96,500 note for the purpose of refunding the indebtedness represented by the note which it attempted to issue on November 18, 1920.

ORDER.

Maclay Rancho Water Company having applied to the Railroad Commission for an order approving the issue of a note, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be permitted to issue its note to refund outstanding indebtedness and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Maclay Rancho Water Company be and it is hereby authorized to issue its two and one-half year 6½ per cent note in the principal amount of $96,500 to refund the indebtedness referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

(1) The authority herein granted will become effective upon the payment by applicant of the fee prescribed in section 57 of the Public Utilities Act, which fee is $97.

(2) Applicant, within 30 days after its issue, shall file a copy of the note it is herein authorized to issue, the filing of which will relieve applicant from filing reports under the Railroad Commission's General Order No. 24.

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(3) The authority herein granted will apply only to such issue of a note as may be made on or before February 28, 1923.

Dated at San Francisco, California, this twenty-third day of December, 1922.

DECISION NO. 11394.

IN THE MATTER OF THE APPLICATION OF CHAS. D. BOYNTON, INDIVIDUALLY, AND CHAS. D. BOYNTON AND GEO. H. SPOONER, AS COPARTNERS, BOTH DOING BUSINESS UNDER THE FICTITIOUS FIRM NAME AND STYLE OF BOULEVARD EXPRESS, AND BOULEVARD EXPRESS, INCORPORATED, A CORPORATION, FOR THE TRANSFER OF AN AUTOMOBILE FREIGHT FRANCHISE BETWEEN SAN DIEGO AND LOS ANGELES, CALIFORNIA, TO SAID CORPORATION, AND THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF THE SAME BY SAID CORPORATION.

Application No. 8156.

Decided December 23, 1922.

TRANSFER—CERTIFICATE—RULES AND REGULATIONS—TECHNICAL INFRACTIONS OF.—The Commission announced that it was concerned less with technical failures to observe its rules and regulations than with those wilful violations which result in actual cessation of operations, either periodic or permanent, or abandonment of service or poor or inefficient service to the public.

Warren E. Libby and *H. N. Blair*, for Applicants.
H. J. Bischoff, for the Coast Truck Line.

BY THE COMMISSION.

OPINION.

Applicants Chas. D. Boynton, individually, and Chas. D. Boynton and Geo. H. Spooner, copartners, both doing business under the firm name of Boulevard Express, and Boulevard Express, Incorporated, a corporation, have petitioned the Railroad Commission for an order approving the sale and transfer of a certain freight truck operative right between Los Angeles and San Diego, now possessed by applicant Chas. D. Boynton, individually, to applicant Boulevard Express, Incorporated, a corporation.

A public hearing on this application was conducted by Examiner Satterwhite at San Diego, the matter was duly submitted, and is now ready for decision.

The franchise proposed to be transferred is the operative right of Chas. D. Boynton for the transportation of freight between the cities of Los Angeles and San Diego, California, serving as intermediate points the city of Vernon and the military reservation at Camp Kearney, together with limited authority to receive certain freight and express at other intermediate points authorized by this Commission in its Decision No. 6588 in Application No. 4754.

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Coast Truck Line, a corporation, which owns and operates certain freight truck franchises in the territory between Los Angeles and San Diego, opposed the granting of this application, and in a written protest alleges substantially that said Chas. D. Boynton has forfeited his operative rights herein sought to be transferred because of wilful failure to personally operate them and by allowing said franchise to be operated by the copartnership consisting of himself and said Geo. H. Spooner without the approval of this Commission.

It has been deemed advisable, in view of all the circumstances surrounding this proposed transfer, to review to some extent the record. Chas. D. Boynton and Geo. H. Spooner were the chief witnesses who testified in support of this application. The testimony shows that Chas. D. Boynton has agreed to sell said franchise to said Boulevard Express, Incorporated, a corporation, in consideration of the issue of five shares of the corporate stock of said corporation of the par value of one hundred dollars ($100) per share, and it was shown that the actual cost of obtaining said franchise from this Commission exceeded the sum of five hundred dollars ($500), said items of cost including attorneys' fees, traveling expenses and other miscellaneous items of expense.

The said copartnership of Chas. D. Boynton and Geo. H. Spooner own all the equipment and assets which have been used in the operation of said franchise, and said copartnership has agreed with said applicant, Boulevard Express, Incorporated, a corporation, in the event this application is granted, that they and each of them will join in an application to this Commission for the transfer of all the equipment and assets of said copartnership to said corporation in consideration of the issuance of stock in said corporation to said copartners for such amount as this Commission may decide upon as fair and reasonable and representing the value of said assets. Since the submission of this matter said applicants have filed with this Commission such an application, which is now receiving attention.

Boulevard Express, Incorporated, is a corporation composed of Chas. D. Boynton, Geo. H. Spooner and Warren E. Libby, and was organized for the express purpose of taking over and operating the business of Chas. D. Boynton and the said copartnership of Chas. D. Boynton and Geo. H. Spooner.

Three director's shares of stock have been issued, and all of the stock of said corporation is common stock, amounting to $100,000, which is divided into one thousand shares of the par value of one hundred dollars ($100) each.

It appears that prior to the granting of the operative rights now sought to be transferred, Chas. D. Boynton was the owner and operator

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of an automobile freight franchise between San Diego and the town of Boulevard. Geo. H. Spooner became a silent partner in the equipment and proceeds of the operation of this franchise, but the entire business was managed and controlled by, and the assets of this operation between San Diego and Boulevard were under the complete supervision of, Chas. D. Boynton. The record shows that Chas. D. Boynton, with the full consent of Geo. H. Spooner, subsequently applied to this Commission for the franchise now sought to be transferred, and upon the granting of the same, as herein indicated, Chas. D. Boynton became the sole owner of the same. It was agreed, however, that all the equipment and assets of the copartnership could be used by Chas. D. Boynton, and were, as a matter of fact, placed under his complete control. The principal place of business of operations under this franchise was San Diego, and all of the business was in the entire charge of Chas. D. Boynton. Geo. H. Spooner was placed in charge of the operations of this certificate right at Los Angeles.

It appears that at no time have there been any written contracts or agreements between these two partners. All arrangements were entirely oral, and in accordance therewith, Chas. D. Boynton at all times was to operate said franchise and be the exclusive manager of the same; but it was agreed that the proceeds from said operations were to be divided between them. There has never been, at any time, any actual transfer of any right, title or interest in said franchise from Chas. D. Boynton to Geo. H. Spooner or to any other person. It had been, for some time, the intention of Chas. D. Boynton and the said copartnership to form a corporation to take over the said franchise, as requested in this proceeding, but the success and stability of said operations have been more or less menaced and made uncertain by reason of active competition of illegal operators as well as private contract carriers in and along the territory between San Diego and Los Angeles, and said applicants therefore delayed the filing of this petition.

It appears that Chas. D. Boynton always employed and relied upon the advice and professional services of his attorneys in his proceedings before this Commission, and depended upon his attorneys for the legality of such proceedings, and at no time was he advised by any of his attorneys that any operations conducted by him in connection with said franchise were not in accordance with the law or in pursuance of the regulations of this Commission. The testimony shows that Chas. D. Boynton believed in good faith that his interest in the partnership and equipment gave him such a proprietary control thereof as would lawfully permit his operations of the said franchise under the arrangements with Geo. H. Spooner, as shown by the record in this proceeding. There is nothing in this record to justify this Commission in concluding

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that there was any wilful or deliberate purpose to deceive the Commission or violate any of its regulations.

This Commission is concerned less with technical failures to observe its rules and regulations than with those wilful violations which result in actual cessation of operations, either periodic or permanent, or abandonment of service or poor or inefficient service to the public.

In other proceedings before this Commission, including the cases cited in this matter by the protestant, operative rights have been canceled and declared forfeited, but the records in such other cases show either actual cessation of service for a short or considerable period of time or deliberate abandonment of operation by the legal owner with no attendant responsibility, or poor, inefficient or unsatifactory service to the public. Under all the facts and circumstances as shown in this proceeding, this Commission will not penalize the legal owner of an operative right by forfeiture thereof, when such owner has at all times taken personal charge of, as well as full responsibility for, the operation of the certificate right, has never permitted said operations to lapse or fail at any time, has rendered an adequate and satisfactory service to the public, and has, in good faith, believed said operations were not in violation of any law or regulation of this Commission.

ORDER.

A public hearing having been held in the above entitled proceeding, testimony having been received and briefs filed, the matter having been duly submitted, and the Commission being now fully advised, hereby finds as a fact that the operation heretofore conducted by Chas. D. Boynton, under the fictitious name of Boulevard Express, has been conducted by him in good faith and in an endeavor to comply with the provisions of the statutory law and the regulations of this Commission, and basing its order on such finding of fact,

It is hereby ordered,

1. That the Railroad Commission hereby approves the sale and transfer from Chas. D. Boynton to Boulevard Express, Incorporated, a corporation, of the operative rights specifically set forth in the preceding opinion in consideration of the issuance by said Boulevard Express, Incorporated, to said applicant, Chas. D. Boynton, of five shares of its capital stock, which issue of stock is hereby authorized.

2. That applicant Chas. D. Boynton shall be required to immediately cancel all tariffs and time schedules now on file with this Commission, and applicant Boulevard Express, Incorporated, a corporation, shall be required to immediately file with this Commission its tariffs and time schedules or to adopt as its own the tariffs and time schedules as heretofore filed by applicant Chas. D. Boynton. All tariffs to contain the

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same rates as heretofore in effect and as covered by tariff filings of said applicant Chas. D. Boynton.

3. That no vehicle may be operated under this authority for transfer by Boulevard Express, Incorporated, a corporation, unless such vehicle is owned by such applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. That the transfer of the operative rights herein above authorized and the required cancellation of tariffs and time schedules by Chas. D. Boynton, and the filing of new tariffs by applicant Boulevard Express, Incorporated, a corporation, shall be made not later than thirty (30) days from the date of the order herein.

5. That Boulevard Express, Incorporated, a corporation, file with the Railroad Commission, within thirty (30) days after the issue of the stock herein authorized, a report as required by the Commission's General Order No. 24.

Dated at San Francisco, California, this twenty-third day of December, 1922.

DECISION No. 11395.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIFTY THOUSAND DOLLARS.

Application No. 8457.

Decided December 23, 1922.

Morrison, Dunne and Brobeck, by *H. H. Phleger*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

In this application The California-Oregon Power Company asks permission to issue and sell 5000 shares of its 7 per cent preferred stock of the aggregate par value of $500,000 for the purpose of financing the cost of extensions, additions and betterments to its plants and properties. The company proposes to offer its stock for sale at not less than $95 per share, but asks permission to expend, of the proceeds, an amount of money, not exceeding $2 per share, to cover costs and expenses of selling the stock. The remaining proceeds it agrees to place in a special fund and withdraw only as authorized by the Commission in supplemental orders.

By Decisions No. 10506, dated May 26, 1922, and No. 10952, dated September 2, 1922, the Commission authorized applicant to issue and sell, in the aggregate, $700,000 of its preferred stock.

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Applicant reports that it will need additional funds to meet its 1923 construction requirements, which, it is estimated, will exceed $1,000,000, and for that reason has made the present petition to the Commission.

The company has an authorized capital stock of $15,000,000, divided equally into preferred and common. On October 1, 1922, $4,441,100 of the common and $2,270,000 of the preferred were reported outstanding. On the same date $3,905,500 of bonds were outstanding, consisting of $1,976,500 of Series "A" first mortgage 7½ per cent bonds due 1941, $1,000,000 of Series "B" 6 per cent bonds due 1942, and $929,000 of underlying bonds. In addition, there is reported $100,000 of notes and $246,275.31 of accounts payable.

I herewith submit the following form of order:

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue and sell $500,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required by applicant, and that the application should be granted, as herein provided;

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to issue and sell on or before December 31, 1923, at not less than $95 per share, 5000 shares of its preferred capital stock of the aggregate par value of $500,000.

The authority herein granted is subject to the following conditions:

(1) All the proceeds received from the sale of the stock herein authorized, less an amount not exceeding $2 per share, shall be deposited with a bank or banks, or with a trust company or companies, and expended only for such purposes as the Railroad Commission may hereafter authorize. An amount not in excess of $2 per share may be expended for the payment of commissions, salaries, advertising and other expenses incidental to the sale of the stock.

(2) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall become effective on and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1922.

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DECISION NO. 11396.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL BONDS IN THE AMOUNT OF TEN MILLION DOLLARS FACE VALUE.

Application No. 6425.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING FIVE PER CENT GOLD BONDS TO THE AMOUNT OF FOUR MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS FACE VALUE.

Application No. 8329.

Decided December 23, 1922.

BY THE COMMISSION.

SEVENTH SUPPLEMENTAL ORDER IN APPLICATION NO. 6425. SECOND SUPPLEMENTAL ORDER IN APPLICATION NO. 8329.

Southern California Edison Company, by Decision No. 11107, dated October 14, 1922, in Application No. 6425, and by Decision No. 11104, dated October 14, 1922, in Application No. 8329, was authorized by the Commission to sell, in the aggregate, $10,000,000 of its general and refunding mortgage 5 per cent bonds of the series of 1919, due February 1, 1944. The orders of the Commission, as amended from time to time, permit the use of $4,561,853.79 of the proceeds to finance the cost of retiring underlying bonds and to pay for additions and betterments made prior to October 31, 1922. The remainder of the proceeds may be expended only for such purposes as the Commission might authorize in supplemental orders.

The company now reports, in supplemental petitions filed in the above matters on December 16, 1922, that during the month of November its net expenditures for its Big Creek development were $1,517,168.83, which expenditures have not been paid or provided for through the issue of stock or bonds.

Applicant asks permission to finance the above mentioned November construction expenditures with proceeds obtained from the sale of the bonds heretofore authorized by the Commission. It reports that there remains an unexpended balance of $643,706.21 realized from the sale of the bonds authorized by Decision No. 11107, and $3,844,440 from the sale of those authorized by Decision No. 11104.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use $643,706.21 of the proceeds realized from the sale of the bonds authorized by Decision No. 11107, dated

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October 14, 1922, and $873,462.62 obtained from the sale of the bonds authorized by Decision No. 11104, dated October 14, 1922, to finance the construction expenditures reported in the supplemental petitions filed in the above entitled matters on December 16, 1922.

It is hereby further ordered, that the orders in Decisions No. 11107, dated October 14, 1922, as amended, and No. 11104, dated October 14, 1922, as amended, shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this twenty-third day of December, 1922.

DECISION No. 11399.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY FOR PERMISSION TO ISSUE AND SELL TWO THOUSAND SHARES OF ITS COMMON STOCK.

Application No. 8461.

Decided December 23, 1922.

W. W. Butler, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

In this application Associated Telephone Company asks permission to issue and sell 2000 shares of its common capital stock, of the aggregate par value of $200,000, for the purpose of financing the cost of extensions, additions and betterments to its properties.

The company reports in its Exhibit No. 1 that up to and including October, 1922, it has expended for new construction the sum of $107,042.57, which was obtained from borrowed money and from other moneys in its treasury, but was not secured through the issue of stock or bonds. It further reports that it will have to expend approximately $100,200 prior to June 1, 1923, to take care of its capital requirements. These estimated expenditures of $100,200 are segregated by applicant in its Exhibit No. 2 as follows:

Carload of cable just received and now being placed in plant	$6,000 00
Party line automatic switchboard ordered for east office	5,500 00
Drop wire	2,500 00
Equipment for additional trunking facilities between east and main offices	2,000 00
Cable ordered	26,000 00
Additional party line board required for main office	5,800 00
Telephone instruments	15,000 00
Labor and incidentals	37,400 00
Total	$100,200 00

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It is of record that applicant proposes to use the proceeds from the sale of the stock herein requested, in part, to pay the outstanding indebtedness incurred in making these expenditures.

By Decision No. 10223, dated March 22, 1922, the Commission authorized applicant to issue and sell 2000 shares of stock at not less than $85 per share net to the company. The company now reports, in this application, that it has received subscriptions at $90 per share for 100 shares of stock in excess of the amount authorized by Decision No. 10223. It asks permission to fill these subscriptions by issuing and selling 100 shares of the stock now applied for at $90 per share. The remaining 1900 shares covered by this application it proposes to offer for sale at their par value. Applicant requests permission to expend an amount not exceeding 5 per cent of the proceeds in payment of stock selling expenses.

I herewith submit the following form of order:

ORDER.

Associated Telephone Company having applied to the Railroad Commission for permission to issue and sell 2000 shares of common stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by Associated Telephone Company and that the application should be granted as herein provided;

It is hereby ordered, that Associated Telephone Company be and it is hereby authorized to issue and sell, on or before December 31, 1923, 2000 shares of its common capital stock of the aggregate par value of $200,000.

The authority herein granted is subject to the following conditions:

(1) Applicant may sell 100 shares of the stock herein authorized at $90 per share, and shall sell the remaining 1900 shares at not less than $100 per share.

(2) Of the proceeds obtained from the sale of stock herein authorized, applicant may use an amount not exceeding $5 per share to pay commissions and selling expense. The remaining proceeds shall be used to finance the cost of the extensions, additions and betterments referred to in the preceding opinion.

(3) Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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(4) The authority herein granted will become effective from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1922.

DECISION No. 11400.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON AND REMOVE ITS RAILROAD TRACK IN THE CITY OF BEVERLY HILLS-COLD WATER CANYON LINE, FROM THE SAWTELLE MAIN LINE TO THE END OF TRACK, IN SAID CITY.

Application No. 7438.

Decided December 23, 1922.

ABANDONMENT—ELECTRIC STREET RAILWAY LINE.—It appearing that the total operations of applicant show a deficit and the particular part of the line sought to be abandoned is not earning the direct cost of operation and that there is no reasonable prospect of putting the line on a paying basis, the continued operation of the line is held not to be justified.

R. C. Gortner, for Applicant.
Paul E. Schwab, City Attorney, for City of Beverly Hills.
S. M. Haskins, for Rodeo Land and Water Company, Protestant.
W. A. Reeder, chairman of committee at Beverly Hills, Protestant.
Stanley Anderson, Manager, Beverly Hills Hotel, Protestant.
Norman A. Pabst, for Board of Trustees, City of Beverly Hills.
Albert A. Kidder, Jr., Protestant.
W. S. Sessions.

BY THE COMMISSION.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the suspension of service and the abandonment of its line of railway, known as the Beverly Hills-Cold Water Canyon Line, situated in the city of Beverly Hills and extending from a junction with the Los Angeles-Sawtelle main line at a point near Santa Monica boulevard, thence along Rodeo drive to Sunset boulevard, thence along Sunset boulevard to Gwendolyn drive, as more fully shown on a blue print map marked C. E. H. 5334 filed as applicant's Exhibit No. 3 at the hearing on this proceeding.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was later submitted and is now ready for decision.

Applicant alleges that the tracks herein proposed to be abandoned have been constructed for some years and that, unless permission is

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received for their abandonment, immediate reconstruction will be necessary for the reason that the citizens of Beverly Hills have requested applicant to rebuild and repave its track from the main line at Beverly Hills to the Beverly Hotel, at an estimated expense by applicant of approximately $30,000, such estimate providing for the use of rock macadam and the present type of rail. Applicant alleges that the estimated cost of reconstruction will be in excess of the original cost of construction of the existing line; that the present operation of the line is not justified by the amount of traffic offering or from the amount of revenue received from such traffic, and that there can not be developed, within a reasonable time, sufficient traffic to justify or warrant either the continued operation of the line or the pending reconstruction and paving.

Mr. L. A. Lovell, auditor of the Pacific Electric Railway Company, applicant herein, testified as to the receipts and expenditures arising from the operation of the line herein proposed to be abandoned, and a statement showing the detail of receipts and expenditures for the period January to September, 1922 (both months inclusive), filed as an exhibit at the hearing, shows receipts amounting to $2,344.61 and expenses directly incurred on the line of $5,023.96. There were certain general expenses charged against the line on various bases amounting to $2,016.97, an item of taxes amounting to $479.50, and an item of interest amounting to $2,048.38, a total of $4,544.85 made up of such arbitrary charges allocated to the specific line. As some of the unallocated charges seemed to require analysis and explanation, either as to the charges themselves or the method used in allocation, opportunity was given to applicant to supplement the exhibit in so far as it referred to the unallocated charges with a further detailed explanatory statement. The Commission has been advised by applicant that it has been thought unnecessary to prepare the detailed statement and that the matter may be considered on the basis of the direct charges against which no protest or criticism appears.

Mr. O. A. Smith, passenger traffic manager of applicant company, testified as to the service heretofore given, and as to the receipts and number of passengers carried. A statement, filed as one of the applicant's exhibits, shows the following data:

Calendar year	Passengers carried	Revenue
1917	104,154	$6,410 10
1918	88,963	6,694 20
1919	65,513	6,855 34
1920	90,464	7,954 56
1921	78,098	5,630 74
January to September, inclusive, 1922	39,680	2,344 61

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The monthly average of passengers carried and revenue received is as follows:

Calendar year	Passengers carried	Revenue
1917	8,679	$534 17
1918	7,416	557 85
1919	5,459	571 28
1920	7,538	662 88
1921	6,508	569 23
1922 (9 months)	4,409	260 51

At the present time, the 1.2 miles of line herein proposed to be abandoned is being served by a one-man car operating on practically a 30-minute headway between the hours of 6.30 and 12.20 a.m. and at a one-way fare of six cents. Efforts have been made by applicant to increase the revenue by offering a schedule of greater frequency, and from February 1 to July 30, 1921, inclusive, a schedule of approximately 15-minute headway was operated and full publicity given of such fact. The anticipated increase in patronage did not develop, and the former 30-minute headway was restored and is at present in effect.

The granting of the application is protested by the Rodeo Land and Water Company and by certain residents of Beverly Hills.

The basis for the protest of the Rodeo Land and Water Company is an agreement dated January 3, 1907, between such protestant and the Los Angeles Pacific Company (a predecessor of applicant), such agreement covering the transfer of certain land and right of way, the erection of a station building, donation of grading work, etc., to the railway company. The railway company agreed to construct the line and upon completion of same to operate it in a manner "conducive to the upbuilding of Beverly Hills." No provision appears as to any definite term in which the line should be operated, or any reversionary clause covering the return of the land and right of way to the Rodeo Land and Water Company in the event that any of the provisions of the agreement were not observed by the railway company. The determination of the status of protestant, Rodeo Land and Water Company, under this agreement is not a matter under the jurisdiction of the Commission and is not properly to be adjudicated by the civil courts.

A divided sentiment exists among the residents and property owners appearing as witnesses in this proceeding. It is the opinion of some of the protestants that the line should be retained, or if discontinued that a bus line should be substituted. Others express a desire for the immediate abandonment of the line and removal of the tracks, either with or without the substitution of the bus line, claiming that property values on Rodeo avenue are adversely affected by the presence of the street car line and that other property on streets without a car line has shown increased values.

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The entire section served by the line is one of a high-class residential character, and the principal use made of the line—with few exceptions—is by household servants, visitors and some guests and employees of the Beverly Hills Hotel. The manager of the Beverly Hills Hotel, claiming an investment of approximately $1,000,000, testified that it would be practically impossible to retain or secure employees if the car line were to be abandoned unless some other form of transportation were to be substituted. His hotel employs from 150 to 200 persons, according to seasonal requirements, and furnishes accommodations for from 100 to 300 guests. Complaint is made that the existing fare of six cents has resulted in many of the employees, in daylight hours, walking from the hotel to the main line of applicant, and that when the five-cent fare was in effect such patrons who now walk used the facilities of applicant.

It appears that an investigation has been made by applicant as to the possibility of substituting a bus service for the line proposed to be abandoned, such bus service to serve not only the territory tributary to the present line, but to run on other streets where no transportation facilities exist. It is the estimate of Mr. O. A. Smith, passenger traffic manager of applicant, that the expense of an adequate bus service substituting for the railway line would approximate $10,000 per year. It will be noted from a preceding compilation of revenue that such amount is far in excess of that received during any calendar year.

We have given careful consideration to all the evidence and exhibits filed herein. It appears that the total earnings of applicant from all sources during the nine months' period, January to September, 1922, inclusive, were $13,606,319.44 and the total expenses, including taxes and interest, were $13,719,254.15, resulting in a deficit of $112,934.71 for the nine months' period.

As regards the receipts and expenses of the line herein sought to be abandoned, the record shows that the total receipts for the same nine months' period were $2,344.61. The direct charges for operation during such period were $5,023.96, to which should be added an amount of $123.09, same being taxes on the basis of 5¼ per cent on the gross revenue, or a total direct operating expense of $5,147.05, resulting in a deficit of $2,802.44.

No items of general expense or expense which is not directly allocated to the line have been included in the above compilation, nor any interest on the value of the line. Such items are properly chargeable against the expense of operation, but by stipulation at the hearing were not to be considered unless covered by a supplemental exhibit, and applicant has requested that the matter be considered submitted on the present record.

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It is apparent that the patronage accorded the Beverly Hills-Cold Water Canyon line has not been sufficient to even approximate the direct cost of operation; that such patronage shows a decreasing number of passengers carried and revenue derived therefrom; that the earnings from the entire property of the Pacific Electric Railway Company are not meeting operating expenses, taxes and fixed charges. There is no evidence before the Commission which indicates that the traffic on this line can be increased to a degree which will enable the continued operation to be conducted without a substantial loss, or that a bus service could be substituted therefor and be conducted so as to meet the necessary operating costs. We are of the opinion and hereby find as a fact that the continued operation of the Beverly Hills-Cold Water Canyon line of applicant is not justified in that patronage sufficient to meet the operating costs is not offered by the public and the continuance of the service is resulting in accumulating deficits.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the preceding opinion;

It is hereby ordered, that this application be and the same hereby is granted.

Dated at San Francisco, California, this twenty-third day of December, 1922.

DECISION NO. 11402.

IN THE MATTER OF THE APPLICATION OF WATSONVILLE WATER AND LIGHT COMPANY, A CORPORATION, AND CITY OF WATSONVILLE, A MUNICIPAL CORPORATION, FOR AN ORDER AUTHORIZING SALE OF A WATER SYSTEM.

Application No. 8505.

Decided December 27, 1922.

H. C. Wyckoff, for Watsonville Water and Light Company.
F. W. Atkinson and *A. W. Sans*, for City of Watsonville.

BY THE COMMISSION.

OPINION.

In this proceeding the Watsonville Water and Light Company, a public utility corporation furnishing water service in and in the vicinity of Watsonville, Santa Cruz County, joins with the city of Watsonville, a municipal corporation, in an application for authority to transfer its water system to the city.

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A public hearing in this matter was held at San Francisco on December 21, 1922, before Examiner Eddy, of which all interested parties were notified and given an opportunity to appear and be heard.

The evidence shows that the applicants herein have agreed upon the terms of the proposed transfer and that at a recent special election the voters of Watsonville authorized the issuance of bonds for the purpose of purchasing this system and for making certain improvements therein. The consideration agreed upon is $200,000, plus the cost of additions and betterments installed subsequent to June 1, 1922. The city expressly agrees to assume all existing obligations of the company relative to present and prospective users of water, whether within its corporate limits or without.

No protest was filed to the granting of this petition and the Commission is of the opinion that public convenience will be best served by giving the authorization sought.

ORDER.

Joint application having been made by the Watsonville Water and Light Company, a public utility corporation, for authority to sell, and the city of Watsonville, a municipal corporation, to purchase the certain water system now serving consumers in and in the vicinity of Watsonville, the matter having been heard and submitted for decision;

It is hereby ordered, that the above entitled application be and the same is hereby granted, subject to the following conditions:

1. That the authority herein granted shall apply only to that particular public utility property described in the application.

2. That consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

3. The authority herein granted shall apply only to such transfer as may have been made on or before June 30, 1923.

4. A certified copy of the instrument of conveyance shall be filed with this Commission by the Watsonville Water and Light Company within thirty (30) days from the date on which it is executed.

5. Within ten (10) days from the date on which the Watsonville Water and Light Company actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this twenty-seventh day of December, 1922.

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DECISION No. 11403.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF TWENTY MILLION DOLLARS, AND SELL AND DISPOSE OF SUCH NOTES IN THE FACE VALUE OF FIVE MILLION DOLLARS.

Application No. 8331.

Decided December 27, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Commission, on October 18, 1922, by Decision No. 11123, authorized the Western States Gas and Electric Company to issue and sell for cash on or before April 1, 1923, at not less than 91½ per cent of their face value and accrued interest, $5,000,000 of Series A 6 per cent notes due November 1, 1937, or interim certificates of a like amount.

Authority was granted, subject among others, to the condition that none of the notes may be issued until the Commission by supplemental order has authorized the execution of an agreement defining the terms and conditions under which the notes will be issued. The $5,000,000 of notes which the Commission has authorized to be issued are a part of an authorized issue of $20,000,000. The decision recites that the $5,000,000 of Series A notes are redeemable at any time prior to maturity, as a whole or in part, on 30 days published notice at 105 per cent of the par value and accrued interest during the first five years of their term; at 102½ per cent of their par value and accrued interest during the next five years; and at 101 per cent of their par value and accrued interest during the last five years of their term. It appears that this statement is in error and that the $5,000,000 of notes, upon at least thirty days published notice, may, at the option of the company, be redeemed at any time prior to the date of maturity; at 105 per cent and accrued interest if redeemed on or before October 1, 1927; at 102½ per cent and accrued interest if redeemed after October 1, 1927, and on or before October 1, 1932; and at 100 per cent and accrued interest if redeemed after October 1, 1932. It is also recited in the Commission's decision that the notes are to be dated November 1, 1922, and mature November 1, 1937. It has been concluded to have the notes dated October 1, 1922, and payable October 1, 1937. All of these facts are set forth in the trust agreement which applicant has filed with its first supplemental application in the above entitled matter and which it asks permission to execute.

The Commission has considered applicant's request and believes that such request should be granted, as herein provided; therefore,

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It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to execute a trust agreement substantially in the same form as the trust agreement filed on December 20, 1922, in the above entitled matter, provided that the authority herein granted to execute a trust agreement is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust agreement, as to such other legal requirements to which said trust agreement may be subject.

It is hereby further ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue $5,000,000 face value of its Series A fifteen-year gold notes dated October 1, 1922, and exchange the same for the interim certificates issued and sold under the provisions of Decision No. 11123, dated October 18, 1922, or sell said $5,000,000 of notes or any part thereof under the provisions of said decision.

It is hereby further ordered, that the order in Decision No. 11123, dated October 18, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-seventh day of December, 1922.

DECISION NO. 11406.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE METHODS AND PRACTICES OF MARTIN B. BEHRENZ, IN THE OPERATION OF AN AUTOMOBILE TRUCK LINE AS A COMMON CARRIER OF FREIGHT BETWEEN SACRAMENTO AND VALLEJO AND INTERMEDIATE POINTS.

Case No. 1727.

Decided December 29, 1922.

Geo. J. Bradley, for Merchants' and Manufacturers' Association of Sacramento.

BY THE COMMISSION.

OPINION.

This is a proceeding initiated on the Commission's own motion to inquire into the methods and practices of Martin B. Behrenz, an operator of an automobile truck line as a common carrier of freight between Sacramento and Vallejo and intermediate points under the authority contained in Decision No. 8699 on Application No. 6599 (decided March 4, 1921), such decision authorizing the transfer of the operative rights heretofore granted to Leonard G. Brotzman under Decision No. 7109 on Application No. 5223 (decided February 11, 1920).

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The Commission having received information that Martin B. Behrenz had discontinued service over the route for which transfer had been authorized, in violation of the provisions of paragraph 4 of Decision No. 8699, which prohibited the transfer, assignment, lease, discontinuance or sale of the operative right unless the written consent of the Railroad Commission was first procured; and the Commission being advised that the operative right had been transferred to one R. H. Wakefield, and that said R. H. Wakefield was conducting the service in lieu of Martin B. Behrenz, the duly authorized operator, an order was issued citing Martin B. Behrenz and R. H. Wakefield to show cause, if any they had, why the certificate rights heretofore granted to Martin B. Behrenz should not be revoked.

A public hearing on the order to show cause was conducted by Examiner Handford at Sacramento, the matter was duly submitted, and is now ready for decision.

At the public hearing no appearance was made by or on behalf of respondents Martin B. Behrenz and R. H. Wakefield.

It appears from the record in this proceeding that the operative right to transport freight as a common carrier by motor truck between Sacramento and Vallejo and intermediate points was originally granted by this Commission's Decision No. 7109 on Application No. 5223 (decided February 11, 1920), authorizing Leonard G. Brotzman to conduct the service requested in such application. Brotzman continued the operation for a period approximating one year, and the rights were transferred under authority of this Commission to respondent Martin B. Behrenz, such authority being contained in Decision No. 8699 on Application No. 6599, as decided March 4, 1921. Behrenz apparently made a failure of his operation and practically quit the service overnight. Behrenz had purchased a truck on a contract basis, and the company selling same took possession on account of defaulted payments and resold it to R. H. Wakefield, who then attempted to operate the line. The service was reduced from a daily service to a service of once per week, and Wakefield thereafter notified his patrons in Sacramento that he would not operate through to Vallejo, although desultory service was for a time rendered between Sacramento and Vacaville. Prior to the date of the hearing on the order to show cause, the intermittent service between Sacramento and Vacaville had been discontinued.

In view of all the record in this proceeding, we hereby find as a fact that the operative right heretofore granted, by authority of transfer, to Martin B. Behrenz for the conduct of an automobile truck line as a common carrier of freight between Sacramento and Vallejo and intermediate points has been forfeited by reason of illegal and unauthorized transfer to R. H. Wakefield and by unauthorized discontinuance of the

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service which the certificate holder was obligated to furnish to the public.

ORDER.

A public hearing having been held on the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that the authority to operate an automobile truck line as a common carrier of freight between Sacramento and Vallejo and intermediate points, as heretofore granted to Martin B. Behrenz by transfer under the provisions of Decision No. 8699 on Application No. 6599, dated March 4, 1921, be and the same is hereby revoked.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION NO. 11408.

IN THE MATTER OF THE APPLICATION OF FRANK B. RUTLEDGE, WILLARD R. BELL AND ALICE R. BELL FOR PERMISSION TO DISCONTINUE THE OPERATION OF THE WATER PLANT FOR PUBLIC USE ON LOT THREE, BLOCK THREE, TOWN OF LANCASTER, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 8440.

Decided December 29, 1922.

N. B. Bachtell, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Lancaster, December 21, 1922, upon the above application to discontinue service of domestic water in Lancaster, Los Angeles County.

At the time the plant was purchased by applicants by authority of Decision No. 8792 of March 28, 1921, there were 24 consumers on the system, all domestic service being on a flat rate of $2 per month. The present municipal system serving in Lancaster (Los Angeles County Water District 2104) began operation April 1, 1922. It established a rate of $1.25 per 1000 cubic feet, with a charge of $25 for meter and service to a point one foot inside the curb line. The rate has since been reduced to $1, and it expects to reduce the rate to 75 cents if and when the Southern Pacific Company takes its service, an event which it expects to occur soon.

About August 15, 1922, applicants sold to E. A. Cleary the lot on which the plant is located. At that time their consumers had been

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reduced to 15 or 16 by transfers to the municipal system. The application, which was filed November 23, 1922, recites that all but 12 consumers had so transferred at that time.

It appears from the testimony at the hearing that at that time there were but eight consumers left on applicants' system, two of whom were transferring to the municipal system, and one of these had a meter already set. It clearly appears that the municipal system is ready, willing and able to serve the others at the lower rate.

All consumers were notified of the hearing, but only one, using three services, appeared. He expressed a willingness to have the application granted.

It appearing that Mr. Cleary is now actually operating the plant under agreement for purchase of the lot referred to, upon motion of counsel leave was granted to amend by making him a party to the application.

It further appears that the plant will soon need repairs estimated to cost $250 to $400. Manifestly, an adequate return upon investment would require a rate so high as to be prohibitive.

ORDER.

A public hearing having been held on the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby finds that public necessity and convenience do not require operation of the water system described in the application. Basing its order upon above finding, and all findings of fact contained in the opinion preceding this order;

It is hereby ordered, that Frank B. Rutledge, Willard R. Bell, Alice R. Bell and E. A. Cleary be and they are hereby authorized to discontinue service of water from the plant described in the application, sixty days after service of written copy of this order upon each of the consumers of water from said system, or prior thereto, if present consumers are sooner provided with other adequate service.

It is hereby further ordered, that applicants shall file with the Commission a verified statement showing date that copy of this order was served upon each consumer and date when all consumers have been provided with other adequate water service, and the date when applicants finally discontinue service.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

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DECISION NO. 11414.

IN THE MATTER OF THE APPLICATION OF THE FAIRMOUNT WATER COMPANY, A CORPORATION, ED. FLETCHER, AND THE CITY OF EAST SAN DIEGO, CALIFORNIA, A MUNICIPAL CORPORATION, FOR AN ORDER AUTHORIZING THE SALE BY SAID FAIRMOUNT WATER COMPANY TO SAID ED. FLETCHER OF THE PLANT, WATER DISTRIBUTING SYSTEM AND REAL AND PERSONAL PROPERTY INCIDENT THERETO, IN THE CITY OF EAST SAN DIEGO AND TERRITORY ADJACENT TO SAID CITY, AND FOR AN ORDER AUTHORIZING THE SALE BY SAID ED. FLETCHER TO THE SAID CITY OF EAST SAN DIEGO OF THOSE PORTIONS OF SAID SYSTEM LYING WITHIN THE LIMITS OF SAID CITY.

Application No. 8462.

Decided December 29, 1922.

Sweet, Stearns and Forward, by *A. H. Sweet*, for Fairmount Water Company.
Crouch and Sanders, by *C. C. Crouch*, for Ed. Fletcher.
Arthur T. French, City Attorney, for City of East San Diego.

BY THE COMMISSION.

OPINION.

In this proceeding the Fairmount Water Company, a public utility corporation, which owns and operates the pipe distribution system supplying water in the city of East San Diego and in certain adjacent territory, makes joint application with Ed. Fletcher for authority to transfer the portion of its system lying within the boundaries of the city and north thereof to said Ed. Fletcher. In addition, application is made herein jointly by Ed. Fletcher and the city of East San Diego for an order authorizing the transfer by Ed. Fletcher to the city of all of that portion of the above mentioned water distribution system lying within the corporate limits of the city.

A public hearing was held in this matter at San Diego on December 20, 1922, before Examiner Williams, of which all interested parties were duly notified and given an opportunity to appear and be heard.

The description of the system which Fairmount Water Company proposes to transfer to Ed. Fletcher, and also the terms and conditions of sale and purchase, are set out in a certain agreement of sale, copy of which is attached to the application and marked Exhibit "A."

Copy of a similar agreement of sale between Ed. Fletcher and the city of East San Diego is also attached to the application and marked Exhibit "E," giving a description of the portion of the system which it is proposed is to be transferred to the city, and the terms and conditions of such proposed sale. The consideration agreed upon in both contracts is the same in amount, namely, $31,000.

The evidence shows that, upon the consummation of the two transfers proposed herein, Ed. Fletcher will retain all that portion of the system of Fairmount Water Company lying north of the north boundary of the city of East San Diego, at present serving some twenty consumers;

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he expressly agrees to assume all the public utility obligations of the company in that area relative both to present and prospective users of water.

Evidence also shows that the city of East San Diego assumes all present obligations of the Fairmount Water Company as to that portion of the property which it proposes to acquire relative to present and prospective consumers.

It appears that the Fairmount Water Company is also the owner of the public utility distribution system supplying some sixty consumers in what is known as the Sierra Vista Tract, located some five miles easterly from the city limits of East San Diego, no portion of which is included in the system it proposes to transfer under this application.

Following the granting by this Commission of authority to make the transfers proposed herein, it is the intention of the board of trustees of the city of East San Diego to immediately proceed with the necessary steps to exercise its option to purchase said distributing system from Ed. Fletcher according to the terms and conditions as set out in above mentioned contract agreement, Exhibit "E."

No protest was filed to the granting of this petition, and the Commission is of the opinion that public convenience and necessity will be best served by an authorization of the transfers as requested.

ORDER.

Joint application having been made by the Fairmount Water Company, a public utility corporation, for authority to sell and Ed. Fletcher to purchase the certain water distribution system now serving consumers in the city of East San Diego and in adjacent territory northerly thereof, and by Ed. Fletcher to sell and the city of East San Diego, a municipal corporation, to purchase that portion of said distributing system of Fairmount Water Company lying within the city limits of East San Diego, and these matters having been heard and submitted for decision;

It is hereby ordered, that the above entitled application be and the same is hereby granted, subject to the following conditions:

1. That the authority herein granted the Fairmount Water Company to transfer public utility property to Ed. Fletcher shall apply only to that particular property described in that certain agreement of sale attached to the application and marked Exhibit "A," and shall apply only to such sale as may be made in accordance with the terms and conditions as set out therein.

The authority herein granted Ed. Fletcher to transfer public utility property to the city of East San Diego shall apply only to that particular property described in that certain agreement of sale attached to the application and marked Exhibit "E," and shall apply only to such

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sale as may be made in accordance with the terms and conditions as set out therein.

2. The considerations given for the transfers herein authorized shall not be urged before this Commission or any other public body as findings of value for any purpose other than the transfers herein authorized.

3. That the authority herein granted shall not in any way apply to properties of Fairmount Water Company located in what is known as the Sierra Vista Tract, or any portion thereof.

4. The authority herein granted shall apply only to such transfers as may have been made on or before June 30, 1923.

5. A certified copy of the instrument of conveyance for each transfer authorized herein shall be filed with this Commission by the Fairmount Water Company and by Ed. Fletcher, respectively, within thirty (30) days from the date on which they are executed.

6. Within ten days from the date on which Fairmount Water Company and Ed. Fletcher, respectively, actually relinquish control and possession of the respective properties herein authorized to be transferred, they shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION NO. 11415.

JOHN AUGUST NELSON ET AL.

vs.

LAKE HEMET WATER COMPANY, A CORPORATION.

Case No. 1747.

Decided December 29, 1922.

Henry Goodcell and *W. G. Irving*, for Complainants.
Hunsaker, Britt and Cosgrove, by *John M. Clayton*, for Defendant.

BY THE COMMISSION.

OPINION.

John August Nelson et al., complainants in the above entitled proceeding, allege in effect that the rate charged for water delivered by the Lake Hemet Water Company between October 11th and March 15th, or during the winter months, is unreasonable and excessive, and that Rule 16, whereby the company requires that the minimum charge be paid before any water, including winter water, will be delivered, is unfair and that said rule should be amended to allow the delivery of winter water without the payment of the minimum charge.

Defendant in its answer denies these allegations.

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A hearing in this matter was held at Hemet before Examiner Williams.

In accordance with its rules and regulations, which have been approved by this Commission, the Lake Hemet Water Company charges each of its public utility consumers a certain amount which varies with each individual, depending on his acreage and whether he desires to order water at the rate of $\frac{1}{16}$ of a miner's inch or $\frac{1}{8}$ of a miner's inch per acre. This is what is called the minimum. It is required that this be paid before any water is delivered during any calendar year, and to this practice complainants object. However, the showing on this point having been given careful consideration, the Commission is of the opinion that the evidence is not sufficient to justify it in ordering a change in the company's rules, and this part of the complaint will be dismissed.

The present rate for water, 40 cents per miner's inch day, was established by the Commission in its Decision No. 7441, dated April 19, 1920 (page 88, Vol. 18, Opinions and Orders of the Railroad Commission of California). This rate applies to all public utility water sold, whether delivered in the period between March 15th and October 11th, called the irrigation season, or between October 11th and March 15th, called the winter season. Complainants maintain that this rate is too high for water delivered during the winter season; that much of the flood waters run to waste because the people can not afford to pay this rate; that if the rate were reduced 50 per cent or more the people would use twice as much winter water and thereby improve their crops and at the same time not reduce the income of the company to any appreciable extent, if at all.

The company claims that the cost of delivering water in the winter is as great as during the irrigation season; that the consumers are not governed so much by the price of the water as by the rainfall during the winter; and that by lowering the rate the use of water will not be materially increased over what it is under the present rates.

Evidence was introduced to show that a greatly increased use of water during the winter months would be beneficial to the orchards and result in higher grade fruit. The testimony of Dr. Bachelors (Riverside Citrus Experiment Station) regarding his experiments in the vicinity of Hemet was very convincing in this connection. There is no assurance, however, that all consumers will purchase all the water they could beneficially use during the winter.

The evidence shows that the rates for extra and winter water have varied in the past from 10 cents to 50 cents per miner's inch day, the lower rate having been in effect for a short time during the spring of 1912, and the higher rate having been charged for extra water during the irrigation season for a number of years. The evidence also shows that the flood flows in the San Jacinto River at the point of diversion

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do not usually begin before December, whereas the irrigation season closes on October 11th. If a winter rate much lower than the regular rate were put into effect and no differentiation made between water from natural stream flow and water from storage, a condition could arise wherein a large number of consumers might call for winter water immediately after the close of the irrigation season, necessitating the withdrawal of stored water from the reservoir in order to supply such demands. If a new rate be established for water from natural stream flow and the present rate continued for stored water, during periods when the natural flow is augmented by stored water there will be confusion on the part of both the company and the consumers as to what the proper charge should be unless some definite procedure is established. It is believed that by continuing the present rate for all water delivered while the reservoir is being drawn upon, the frequency of this occurrence will be regulated on the one hand by the desire of the company to conserve its stored water against a possible dry winter, and on the other hand by the objection of the consumers to the summer rate for winter water.

The consumers have asked to have the rate for winter water reduced to 20 cents per miner's inch day, and the company suggests in its brief that the rate be reduced to 30 cents per miner's inch day, by way of experiment.

After carefully considering all the evidence, the Commission is of the opinion that a rate of 25 cents per miner's inch day for all water delivered from the natural stream flow between October 11th and the following March 15th of each year will be fair to both the company and the consumers.

ORDER.

John August Nelson et al., having filed formal complaint with the Railroad Commission against the Lake Hemet Water Company, as outlined above, a public hearing having been held, the matter having been submitted and being now ready for decision:

It is hereby found as a fact that the rate now charged by the Lake Hemet Water Company for so-called "winter water" is unjust and unreasonable in so far as it differs from the rate set out in this order, and that the rate so set out is a just and reasonable rate to be charged for such service.

And basing its order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Lake Hemet Water Company be and it is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following rates for winter irrigation water and effective for all water delivered on and after January 1, 1923:

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Winter Irrigation Rates.

For all water delivered between October 11th and the following March 15th, annually, any portion of which is drawn from Lake Hemet, for each miner's inch day, or 1728 cubic feet---------- 40 cents

For all water delivered between October 11th and the following March 15th, annually, no portion of which is drawn from Lake Hemet, for each miner's inch day, or 1728 cubic feet---------- 25 cents

Except as altered herein, the present rate schedule shall remain in full force and effect.

It is hereby further ordered, that as to all other matters contained in the above entitled complaint, the same is hereby dismissed.

It is hereby further ordered, that January 1, 1923, be and the same is hereby designated as the effective date of this order.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION NO. 11416.

IN THE MATTER OF THE INVESTIGATION INTO THE LAWFULNESS OF THE OPERATION OF CERTAIN AUTOMOBILE STAGES OF S. H. DUNBAR, B. A. PERRY AND J. HELD.

Case No. 1833.

Decided December 29, 1922.

Harry A. Encell, for Respondents.
Wm. F. James, for Peninsular Railway Company and San Jose Railroads, Intervenors.
Arthur L. Levinsky, by *Wm. F. James*, for Fresno Traction Company, Stockton Electric Railway Company, Central California Traction Company, Visalia Electric Railway Company, Intervenors.
Albert L. Whittle, for San Francisco-Oakland Terminal Railways, *amicus curiae.*

BY THE COMMISSION.

OPINION.

This is a proceeding initiated by the Railroad Commission, on its own motion, against S. H. Dunbar, B. A. Perry and J. Held, owners of individual operative rights to serve the territory between Oakland and San Jose, to investigate the legality of alleged operation of automobile stages owned by respondents between Santa Clara and Palo Alto over a route for which respondents, or either of them, hold no operative rights as required by the provisions of chapter 213, Statutes of 1917, and amendments thereto. An order was duly issued on October 27, 1922, requiring respondents to appear before the Commission and show cause why the alleged operation should not be held to be unlawful and for such other and further action as the Commission might deem meet and proper in this proceeding.

Public hearings on the order to show cause were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

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It appears from the evidence in this proceeding that tentative arrangements had been made by the local agent of the Peerless Stage Association at San Jose with the authorities of Santa Clara College regarding the transportation of students from the college to Palo Alto for the football game on Saturday, October 14, 1922; that the arrangements were originally proposed on a rate of 65 cents per passenger; that later Joseph Held, one of the respondents, acting as manager for the members comprising the Peerless Auto Stage Association, advised the representatives of the Santa Clara University that the quoted rate of 65 cents could not be protected by reason of advice received from the Commission and arrangements were therefore made for the rental of equipment on the basis of $12 each for stages of nineteen-passenger capacity and $16 for a stage of twenty-five-passenger capacity; that three cars were rented at the rate of $12 by respondent Perry, and one by respondent Held, each of which were paid for by the students at Santa Clara University; that one car of twenty-five-passenger capacity was rented by respondent Dunbar at a rate of $16, such car being used for the transportation of the football team between Santa Clara and Palo Alto and return and being paid for by the athletic association by a check issued over the signature of the treasurer of the university.

It is apparent that the members of the Peerless Auto Stage Association, respondents herein, after having received advice from the Commission that the practice of operating stages off the authorized routes for individual fares was considered to be in violation of the statutory law, discontinued the practice in that tentative arrangements made in their behalf by their agent at San Jose with the officials of the Santa Clara University were canceled and new arrangements were made on the basis of renting the entire car for a flat rate, and under such rate the transportation of the students and football team between Santa Clara University and Palo Alto was accomplished.

In view of all the evidence, the proceeding herein will be dismissed as to all respondents, the Commission, however, cautioning such respondents as to the necessity for strict compliance in future with directions of the Commission as to methods of operation which will be in full compliance with the statutory law.

ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised;

It is hereby ordered, that this proceeding, following appearance by S. H. Dunbar, B. A. Perry and J. Held, respondents to the Commission's order to show cause, be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

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DECISION NO. 11418.

CITY OF REEDLEY, A MUNICIPAL CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY.

Case No. 1683.

Decided December 29, 1922.

C. W. Tackaberry, for Complainant.
J. W. Walker, for The Atchison, Topeka and Santa Fe Railway Company.
Frank B. Austin, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

This is a proceeding in which the city of Reedley complains that there is inadequate protection at various crossings of streets over The Atchison, Topeka and Santa Fe Railway and Southern Pacific Company in the city of Reedley, and asks that these two railroads be required to install signal devices for the protection of the people using the various crossings.

A public hearing was held on this complaint before Examiner Satterwhite, at Reedley, December 21, 1921.

The public crossings in the city of Reedley over both the tracks of The Atchison, Topeka and Santa Fe Railway and Southern Pacific Company are cited in this complaint, but North avenue and Twelfth street, which cross the Santa Fe only, are not mentioned in the complaint.

Both railroads pass through the city of Reedley from the northwest to the southeast. They are approximately parallel to each other and two hundred (200) feet apart. The streets are parallel to or at right angles with the railroads with the exception of avenues known as North, South, East and West, which are located near the boundaries of the city in the direction designated by their names and are parallel to section lines. The streets open across the railroads are as follows, named in their order from northwest to southeast: West avenue across both railroads; North avenue across the Santa Fe; Eighth street, Tenth street and Eleventh street across both railroads; Twelfth street across the Santa Fe only; Thirteenth street and South avenue across both railroads. All of these crossings are complained of in this proceeding with the exception of North avenue and Twelfth street. The conditions at each crossing covered by the complaint, as well as the crossing of North avenue, will now be briefly described:

West avenue and North avenue should be considered together. West avenue is a north and south connecting link between two portions of the county highway system and is the principal entrance to Reedley from the north. North avenue terminates at West avenue between the

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Santa Fe and Southern Pacific. Thus North avenue crosses the Santa Fe only. Traffic from the north to the business section of Reedley, which is located on "G" street situated one block northeasterly of and parallel to the railroads, moves by West avenue, North avenue and "G" street. Formerly this traffic moved over a dirt roadway on the Santa Fe's right of way immediately northeast of the railroad connecting West avenue and North avenue, without crossing the main track of the Santa Fe. Both North and West avenues, however, have recently been paved, this paving being over the official routes of the streets, so that the traffic, to follow the pavement, must cross the Santa Fe twice, making a right angle turn at the intersection of North avenue and West avenue between the two railroads. The view of approaching trains from the north at the West avenue crossing is obscured on both railroads by a packing house located between the railroads and west of the street. West avenue crosses three tracks of the Santa Fe and one track of the Southern Pacific, while North avenue crosses the three tracks of the Santa Fe only. The Santa Fe has installed an automatic flagman for the protection of West avenue across its tracks. The Southern Pacific crossing has no special protection, although the view is obstructed and the highway traffic is very heavy.

The Eighth street crossing is primarily used as a means of access to packing houses located between the railroads and adjacent to Eighth street. It also carries some of the normal cross-town traffic. The view at this crossing is seriously obstructed by these packing houses. This street is across five tracks of the Santa Fe and three tracks of the Southern Pacific. There is no special protection on either railroad.

Tenth street is one of the centrally located and relatively important cross streets of the city. The view of trains on this street is also seriously obstructed by packing houses and a lumber yard. This street crosses three tracks of the Santa Fe and five tracks of the Southern Pacific. The crossing over the main line of the Santa Fe is protected by an automatic crossing bell of clapper type. The Southern Pacific crossing has no special protection.

Eleventh street is the principal cross street of Reedley, and has the heaviest vehicular traffic over any of the railroad crossings herein involved. It connects with West avenue to the southeast and constitutes the principal means of access to the city from the south. This street crosses two tracks of the Santa Fe, of which the main line is protected by a gong-type crossing bell. Eleventh street also crosses four tracks of the Southern Pacific, but no special protection is installed. Both Tenth and Eleventh streets have been paved for some time. The view at Eleventh street is not seriously obstructed, the Southern Pacific passenger station, which is located adjacent to this crossing, constituting the principal obstruction to view.

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Thirteenth street is across three tracks of the Santa Fe, the main line of which is protected by a crossing bell, and across four tracks of the Southern Pacific, where no special protection is provided. The view at this crossing is partially obstructed by industrial buildings, served by the two railroad tracks.

South avenue is across the main line only of each railroad. Although used to some extent for general east and west traffic, its principal use is for the hauling of fruit to a large cannery located adjacent to this street and between the two railroads. The view to the southeast is seriously obstructed by this cannery. In addition to the obstruction to view, due to buildings and industries indicated above, there is always a likelihood of cars being stored on other than the main-line tracks near the various crossings, under which condition the view may be much more seriously obstructed. No special protection is provided by either railroad at this street.

The population of Reedley as given in the federal census was twenty-four hundred forty-seven (2447) in 1920, and the population is now estimated to be three thousand (3000), approximately half of which reside on each side of the railroads. Grammar schools are located on each side of the tracks, but the grammar school districts are divided in such a manner that the railroads do not constitute the dividing line between the two districts. There is a union high school located at the southwesterly corner of the city, the district for which includes a considerable amount of territory on all sides of Reedley.

There are five regular passenger trains on the Southern Pacific, four of which stop at Reedley. The freight traffic varies from four trains to eight trains per day in the busy season, most of which is in the day time. Many of these freight trains, particularly in the busy season, do a considerable amount of switching in Reedley. Occasionally freight trains pass through the city without stopping.

The Santa Fe has eight regular passenger trains, all of which stop at Reedley. There are, in addition, four mixed trains, four local freight trains and, in the busy season, usually four extra freight trains per day. Practically all of these trains stop, and the freight trains usually are switching about ten hours out of twenty-four.

The city has, subsequent to the hearing but according to stipulation, taken and submitted traffic counts, the results of which are shown in the following table:

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Tabulation of Traffic Counts Taken at Various Grade Crossings in the City of Reedley on Saturday, May 20, 1922, for Eighteen Hours Between 6 a.m. and Midnight.

Classification	Location					
	West ave.	8th st.	10th st.	11th st.	13th st.	South st.
Autos	1,864	155	707	2,110	342	294
Trucks	154	15	56	140	62	43
Horsedrawn	15	7	28	19	21	2
Motorcycle	29	6	5	13	107	5
Bicycle	61	22	58	200	110	--
Pedestrian	110	78	508	1,255	520	36
Totals	2,233	283	1,362	3,737	1,162	380

The traffic counts definitely show that the volume of travel in this community has not yet reached the magnitude that would justify a large expense incident to the separation of grades, particularly since the flat topography of the city is unfavorable for such separation. Due to the peculiar situation of having the railroads far enough apart for the convenient location of industries between them it has developed that the location of these very industries makes it impracticable to close any of the existing crossings with the exception of possibly North avenue. It appears that the city proposes some time to extend "G" street, the principal business street of the city, northwesterly to its intersection with West avenue, and when this is done the need of the North avenue crossing over the Santa Fe will entirely disappear. This improvement should be made at an early date.

The traffic count shows that Eleventh street carries the greatest traffic of any street crossing the tracks in Reedley and the amount of traffic at this street appears to clearly justify additional protection. Representatives of both railroads testified that if it were determined that additional protection were needed at any of the streets this additional protection could be satisfactorily given by the installation of automatic flagmen connected to track circuits on main lines only. Although the installation of automatic flagmen to protect streets across tracks in station yards is not without its disadvantage, it appears that the Eleventh street crossing has so few tracks that this type of protection should be reasonably satisfactory and it will therefore be required at this location.

The Tenth street crossing is also an important crossing, the traffic being of such a volume that serious consideration should be given to the providing of additional protection. The track situation is somewhat more complicated at this street and it must be admitted that the installation of an automatic flagman will not accord entire adequate protection. It is proposed that ultimately it will be necessary to maintain a human flagman at this street during the rush hours of the busy season of the year, but pending the time that this more adequate protection can be justified, we are convinced that such protection as an automatic flagman

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will afford should be given at the crossing of each of the railroads over Tenth street.

The traffic at the Eighth street, Thirteenth street and South avenue crossings, when taken in consideration with other conditions, does not appear to justify additional protection at this time.

As has been noted above, West avenue crossing over the Santa Fe is already protected by an automatic flagman which at this location appears to be quite adequate. The Southern Pacific tracks, however, should have approximately the same protection, and track conditions at this location are such that an automatic flagman will be quite effective and should be installed.

Neither railroad thought that additional protection was necessary for the various crossings at Reedley, but both railroads took the position that if additional protection were found necessary the city of Reedley should be called upon to bear at least a portion of the expense. They pointed out that communities generally undertake to provide protection to traffic upon the streets and that it was only fair that they should participate in this duty when the streets cross the railroad. Although this theory has not generally been accepted by the Commission there is another factor which in this instance should be taken into consideration. It was shown that the traffic in the city of Reedley could be handled over West street and the two centrally located streets of the city; namely, Tenth and Eleventh streets, inasmuch as this traffic was actually being handled for a considerable period while the streets leading to the other crossings were being improved. The very fact that the city has encouraged the division of traffic from the two principal crossings of the city to others indicated that this act places a certain portion of the responsibility of protecting these other crossings upon the city. It therefore appears that although the protection of Tenth and Eleventh streets and West avenue should be assessed entirely to the railroad, the protection at other crossings, when the same is justified, probably should be shared by the city.

ORDER.

A public hearing having been held in the above entitled matter, the Commission being apprised of the facts and the matter being submitted and ready for decision;

It is hereby ordered, that the Atchison, Topeka and Santa Fe Railway Company shall, at its sole cost and expense, install and maintain an automatic flagman for the protection of the crossings over its tracks with each of the following streets, in the city of Reedley, namely, Tenth and Eleventh streets. Said automatic flagmen should be of a type and

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installed in accordance with the plans and data approved by the Commission. The installation of said automatic flagmen shall be made within ninety (90) days from the date of this order and the Commission shall be notified, in writing, of the completion of such installation of said automatic flagmen within thirty (30) days thereafter; and

It is hereby further ordered, that Southern Pacific Company shall, at its sole expense, install and maintain an automatic flagman for the protection of the crossing of its tracks with each of the following streets in the city of Reedley, namely, West avenue, Tenth street and Eleventh street. Said automatic flagmen shall be of a type and installed in accordance with plans and data approved by the Commission. The installation of said automatic flagmen shall be made within ninety (90) days from the date of this order and the Commission shall be notified in writing of the completion of the installation of said automatic flagmen within thirty (30) days thereafter.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11419.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED MOTOR FREIGHT LINES, INCORPORATED, FOR ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 8488.

Decided December 29, 1922.

J. B. McFarland, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

In this application the Railroad Commission is asked to make its order authorizing Consolidated Motor Freight Lines, Inc., to issue 8100 shares of its capital stock of the aggregate par value of $40,500.

Consolidated Motor Freight Lines, Inc., was organized on or about May 15, 1921, with an authorized capital stock of $75,000, divided into 15,000 shares of the par value of $5 each. Stock of the par value of $33,225 is reported outstanding. The company is engaged in the business of transporting freight by auto trucks between San Francisco, Oakland, Richmond, Haywards and San Leandro and of local hauling in San Francisco. For the ten months ending October 31, 1922, it reports its gross revenues at $23,126.73, its operating expenses at $19,162.95 and net profit for the period at $3,963.78. Its assets and liabilities as of October 31, 1922, are reported as follows:

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Assets.

Cash on hand and in banks	$1,482 40
Accounts receivable	3,188 87
Motor equipment	28,640 00
Truck accessories	1,393 00
Furniture and fixtures	625 00
Stationery and supplies	325 00
Organization expenses	3,335 77
Goodwill	3,950 00
Prepayments	655 15
Deposit on lease	750 00
Total assets	$44,345 19

Liabilities.

Capital stock	$33,225 00
Accounts payable	3,413 93
Reserve for depreciation	2,825 00
Surplus	4,881 26
Total liabilities	$44,345 19

If permitted by the Commission, the company proposes to sell $27,500 of the stock herein applied for at not less than 80 per cent of par value and to use the proceeds for the following purposes:

For additional equipment	$20,748 00
For working capital	1,000 00
To pay indebtedness	800 00

Of the remaining $13,000 of stock, applicant proposes to deliver $11,500 in payment of real property located in Berkeley and Richmond, to deliver $200 of stock to J. B. McFarland for organization services, $300 to N. J. Taillon in payment of services as special accountant, and $1,000 to J. A. Snowden for services in arranging the purchase of real estate.

The company reports that in order to adequately take care of its business, which is reported to be rapidly increasing, it has been found necessary to purchase four new White trucks and to provide additional working capital. The real properties to be acquired are reported to be necessary for warehouse and terminal purposes and consist of three lots in Berkeley and one lot and a two-story corrugated iron warehouse in Richmond. The $800 note to be paid is part of an indebtedness, payment of which the Commission has heretofore authorized applicant to assume.

I herewith submit the following form of order:

ORDER.

Consolidated Motor Freight Lines, Inc., having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably

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required by applicant for the purposes specified herein and that the application should be granted as herein provided;

It is hereby ordered, that Consolidated Motor Freight Lines, Inc., be and it is hereby authorized to issue 8100 shares of its capital stock of the aggregate par value of $40,500.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized, $27,500 may be sold at not less than 80 per cent of par value and the proceeds used to finance the cost of additional properties, to provide additional working capital and to pay indebtedness, all as referred to in this application and in the foregoing opinion.

2. Stock in the amount of $11,500 may be delivered in full payment of the real properties referred to in the foregoing opinion, and stock in the amount of $1000 to J. A. Snowden, $300 to N. J. Taillon and $200 to J. B. McFarland for sevices more particularly described in this application.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue stock will become effective from the date hereof and will expire on September 30, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11420.

IN THE MATTER OF THE APPLICATION OF THE INVESTMENT WATER COMPANY, A PUBLIC UTILITY, FOR AUTHORITY TO INCREASE RATES.

Application No. 8220.

Decided December 29, 1922.

Flint, MacKay and Bowen, by *W. A. Bowen*, *J. H. Schenck* and *W. R. Flint*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Investment Water Company, Incorporated, asks authority to increase its rates for water delivered to consumers on

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the properties of the Los Angeles Investment Company in Southwest Los Angeles, Los Angeles County, California. Applicant alleges in effect that the present rates charged consumers do not produce sufficient revenue to cover maintenance and operating expense, depreciation and an adequate return upon the investment.

Public hearings were held in this matter at Los Angeles before Examiner Williams, of which hearings all interested parties were notified and given an opportunity to be present and be heard.

It appears that the Investment Water Company was incorporated on November 18, 1918, taking over, by authority of this Commission, the Sentinel Heights Water Company. The water system at the present time supplies approximately 620 consumers. Water is pumped from wells into the mains and two large storage reservoirs, having a combined capacity of 100,000 gallons. The pipe lines are all cast iron, ranging from four to eight inches in diameter. The services are all metered.

The present rates charged by the utility are as follows:

Seven cents per 100 cubic feet, with a monthly minimum of 75 cents.

It will be noted that the above rates are less than those charged for the same service by the water department of the city of Los Angeles, which serves adjacent territory.

The evidence presented indicates that the territory served by the applicant is still in the development stage and growing rapidly. The water system was installed largely as an adjunct to a real estate promotion program of an allied concern.

Applicant shows a book value of plant amounting to $50,447.83; maintenance and operation expense for year 1921 as $4,887.17; depreciation annuity $978.86, computed by the straight line method. While these sums do not agree with the figures presented by Mr. Van Hoesen of the Commission's engineering staff, it is unnecessary, considering the stage of development of this system, to attempt a rigid reconciliation of the estimates submitted.

It is evident that the revenues of 1921, amounting to $4,831.10, are not commensurate with the annual charges to which applicant is entitled and that some adjustment should be made. The rates established in the following order will yield an amount sufficient for the cost of maintaining and operating this system, provide an ample replacement annuity and a sum in addition available for a proper return upon the investment in used and useful property devoted to the public service.

ORDER.

The Investment Water Company having applied to the Railroad Commission for authority to increase the rates charged for water service in a section of the southwest portion of the city of Los Angeles, Los Angeles County, California, a public hearing having been held, and the matter having been submitted:

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It is hereby found as a fact that the rates and charges of the Investment Water Company, in so far as they differ from the rates and charges herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable for the service rendered by this applicant.

And basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the Investment Water Company be and it is hereby authorized and directed to file with this Commission, within twenty (20) days of the date of this order, the following rates, said rates to be charged for all water service rendered subsequent to January 31, 1923, or the nearest meter reading period thereto:

Monthly Metered Rates.

From	0 to 10,000	cubic feet, per 100 cubic feet	$0 10
From	10,000 to 50,000	cubic feet, per 100 cubic feet	085
From	50,000 to 100,000	cubic feet, per 100 cubic feet	07
For use over	100,000	cubic feet, per 100 cubic feet	05

Monthly Minimum Charges.

⅝-inch or ¾-inch meters	$0 75
1 -inch meters	1 00
1½-inch meters	1 50
2 -inch meters	2 00
3 -inch meters	3 00

The charge for each fire hydrant in service shall be at the rate of twenty-four dollars ($24.00) per annum.

It is hereby further ordered, that the Investment Water Company file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers.

It is hereby further ordered, that the effective date of this order be and it is hereby designated as January 10, 1923.

Dated at San Francisco, California, this 29th day of December, 1922.

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DECISION No. 11421.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE OF EQUIPMENT TRUST CERTIFICATES FOR THE PURPOSE OF ACQUIRING FIFTEEN COACHES.

Application No. 8445.

Decided December 29, 1922.

Morrison, Dunne and Brobeck, by *R. C. Foerster*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

In this application, San Francisco-Oakland Terminal Railways ask permission to issue $175,000 face value of ten-year six per cent serial equipment trust certificates for the purpose of financing, in part, the cost of constructing and equipping fifteen new cars to be used in its key division service.

The company further asks permission, as and when the proposed plan of reorganization, now being formulated, becomes effective, to use proceeds from the sale of a proposed issue of first mortgage bonds to retire these equipment trust certificates at par and accrued dividends.

The application and the testimony of George H. Harris, assistant to applicant's general manager, indicates that the company's present facilities, especially on its Twelfth street line, are inadequate to properly take care of the business of the company, which is reported to be rapidly increasing, and which, it is thought will be further developed when the two ferry boats, now under construction, are put in operation.

To meet this demand for service, applicant proposes to purchase and construct fifteen new steel center entrance cars with a seating capacity of 68 passengers each. It is reported that these cars can be acquired at a cost of $17,500 each, making the aggregate cost $262,500.

The company proposes to finance a part of the cost of its new cars through the issue and sale of $175,000 of equipment trust certificates. These certificates will bear interest at not exceeding six per cent per annum, will mature in equal amounts semiannually over a period of ten years and will be redeemable in whole, or in part, on any dividend payment date at par and accrued dividend. It appears that such certificates will be issued and under an equipment trust agreement under the terms of which a trustee will hold title to the cars, applicant operating them under lease arrangements which in effect will obligate it to pay the certificates.

The record shows that the company has arranged for the sale of the entire $175,000 of certificates at 99 per cent of face value, and that it

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plans to redeem them at 100, plus accrued dividend, within one year from the date of an order of this Commission authorizing the issuance of bonds for the purpose of carrying into effect the reorganization plans of applicant.

Applicant has not submitted with its petition a copy of the proposed equipment trust and lease agreements. Obviously the Commission can not at this time make a final order in this proceeding. The order herein will not become effective until applicant has filed with the Commission a copy of these instruments and the Commission, by supplemental order, has authorized their execution.

ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for an order authorizing the issue of $175,000 of equipment trust certificates, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that the expenditures for such purpose are not in whole, or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Francisco-Oakland Terminal Railways be and it is hereby authorized to issue and sell, at not less than 99 per cent of face value, plus accrued dividend, $175,000 of ten-year six per cent serial equipment trust certificates for the purpose of paying, in part, the cost of the fifteen new cars referred to in this application, or to assume the obligations under equipment trust and lease agreements looking toward the payment of $175,000 of equipment trust certificates issued under the same terms and conditions.

The authority herein granted is subject to further condions as follows:

(1) The authority herein granted will not become effective until there has been filed with the Commission a copy of the proposed equipment trust and lease agreements, and the Commission, by supplemental order, has authorized the execution of such equipment trust and lease agreements.

(2) The equipment trust and lease agreement shall provide for the payment of all equipment trust certificates issued thereunder within one year after the date of an order from this Commission authorizing the issue of first mortgage bonds for the purpose of carrying into effect the reorganization plan referred to in this application.

(3) The authority herein granted will not become effective until San Francisco-Oakland Terminal Railways has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $175.

(4) Applicant shall keep such record of the issue and sale of the certificates herein authorized and of the disposition of the proceeds as

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will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted will apply only to such certificates as may be issued, sold and delivered on or before March 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11422.

IN THE MATTER OF THE APPLICATION OF PASADENA TRANSFER AND STORAGE COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT, EXPRESS AND BAGGAGE SERVICE BETWEEN PASADENA AND LOS ANGELES.

Application No. 8301.

Decided December 29, 1922.

R. R. Sutton, for Appellant.
E. T. Lucey, for Atchison, Topeka and Santa Fe Railway.
E. E. Bennett, for Union Pacific Railway System.
H. M. Blair, for Pasadena Electric Express, Joe and Ed's Express, and Hodge Transportation System. Protestants.
Mrs. H. S. Macey, for Auto Parcel Delivery.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Los Angeles upon the above entitled application for certificate of public convenience and necessity to operate a freight, express and baggage service between Los Angeles and Pasadena upon the ground that such service has been given regularly and continuously since a period prior to May 1, 1917. It appears from the testimony herein that applicant has been engaged in business in Pasadena for many years, in storage and moving, in the drayage business operated principally in Pasadena with occasional trips to Los Angeles, in the baggage transfer business between the railway stations and Pasadena and Los Angeles, and in the transportation of general merchandise and freight regularly between Los Angeles and Pasadena and was so engaged prior to and since the adoption of chapter 213, Laws of 1917. Applicant only recently offered its tariffs and schedules for filing, previously claiming that it was not under the jurisdiction of the Commission, principally for the reason that it did not

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have a freight terminal or office in Los Angeles, and that its baggage transfer business was operated only on separate calls. When the company finally offered its tariffs and schedules for filing they were not accepted; but because of the long delay it was directed to file application of the above character, that other carriers might be given opportunity to protest.

It further appears from the testimony that shortly after the adoption of the statute, and again at a later period, about 2½ years ago, a representative of the Commission called upon applicant with reference to filing schedules and tariffs as required by the Commission's general order, and upon facts presented at that time, the conclusion was reached that the company was not under the jurisdiction of the Commission. The books presented seemed to indicate that the company was engaged principally in a "for hire" service upon separate calls. Apparently it was not stated at that time whether or not the company was hauling freight or merchandise, but the impression received by the Commission's representative was that all of its hauling was on special calls and not over a regular route between fixed terminals.

It appears, however, from the testimony of Joseph Zimmerman of Joe and Ed's Express that at the time he drove for applicant in 1913, it was operating regular schedules between Los Angeles and Pasadena hauling general freight and merchandise and that he observed continued operation of this character after he left its employ; that at this period and later applicant often operated as many as six vehicles on one round-trip schedule. The business was operated with teams for many years and about 1916, and subsequently, by trucks.

It satisfactorily appears from all the testimony that because of operation as a common carrier in good faith prior to May 1, 1917, applicant was not required by the statute, at the time of its adoption, to procure a certificate of public necessity and convenience; that such operation has continued regularly since, except for a period of three or four days, owing to a controversy with the federal revenue officials concerning payment of war tax, which was resolved by them in applicant's favor, and that its failure to file schedules and tariffs as required by the Commission's general order was excusable under all the circumstances shown. The Commission therefore deems it unnecessary in this particular instance that applicant be now required to make proof of public necessity and convenience for its service in the same manner and to the same extent that would be required in the case of an applicant preparing to begin business, and that the showing made is sufficient to prove the continued existence of an operative right established prior to May 1, 1917.

Applicant moved at the hearing for leave to amend the form of its application to conform to the proofs submitted and to request a determination of its operative rights, if the Commission should conclude that

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such amendment should be made. Leave to amend as proposed is accordingly granted.

At an adjourned hearing applicant's regular route was shown to be that found in the order.

ORDER.

A public hearing having been held in the above entitled application, the matter being submitted and now ready for decision, and it appearing that the applicant was operating in good faith on May 1, 1917, as a common carrier of freight, express and baggage between Los Angeles and Pasadena, over a regular route via Los Angeles street, Macey street, Mission road, Huntington drive, Oneonta Park, and Fair Oaks avenue, within the meaning of chapter 213, Statutes of 1917, and has continued to so operate since that time, and it appearing therefore that it is unnecessary for it to procure a certificate of public convenience and necessity;

It is hereby ordered, that applicant file copies of its tariff and time schedules within ten days from date hereof.

It is hereby further ordered, that the application in all other respects be, and it is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11426.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY AND SANTA CRUZ COUNTY UTILITIES FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID COAST COUNTIES GAS AND ELECTRIC COMPANY TO LEASE, AND SAID SANTA CRUZ COUNTY UTILITIES TO HIRE, A CERTAIN ELECTRIC TRANSMISSION LINE BELONGING TO SAID COAST COUNTIES GAS AND ELECTRIC COMPANY.

Application No. 8508.

Decided December 29, 1922.

BY THE COMMISSION.

ORDER.

Coast Counties Gas and Electric Company asks permission to lease to Santa Cruz County Utilities for a term of five years, a certain pole and wire electric transmission line about two and one-tenth miles long and located between Brookdale and Boulder Creek. Santa Cruz County Utilities, which joins in the application, operates an electric distribution system in the towns of Brookdale, Boulder Creek and adjoining and intervening territory. It purchases electric energy from the Coast Counties Gas and Electric Company. It appears that it can advantageously operate the transmission line it desires to lease and has

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agreed to keep the line in good repair and condition and pay an annual rental of $180. The Commission has considered applicants' request and believes that this is not a matter on which a public hearing is necessary and that this application should be granted; therefore,

It is hereby ordered, that Coast Counties Gas and Electric Company be and it is hereby authorized to lease to the Santa Cruz County Utilities, for a term of five (5) years at a rental of $180 per annum, "that certain twenty-three hundred (2300) volt, single phase electric transmission line which is constructed on the Ben Lomond-Boulder Creek road in the county of Santa Cruz, State of California, and extends from a point south of Brookdale opposite telephone pole number 7/28 to the southerly end of Boulder Creek opposite telephone pole number 9/31, a distance of approximately two and one-tenth (2.1) miles, and consists of fifty-three (53) poles, together with the crossarms, pins, insulators, wires and other appliances and fixtures installed thereon," said property to be leased pursuant to the terms and conditions of the lease filed in this proceeding.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11430.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND PLEDGE FIVE PER CENT GOLD BONDS, DUE IN 1951, TO THE FACE AMOUNT OF $1,761,000, SECURED BY MORTGAGE AND DEED OF TRUST, DATED NOVEMBER 20, 1911, FROM PACIFIC LIGHT AND POWER CORPORATION TO UNITED STATES MORTGAGE AND TRUST COMPANY.

Application No. 8362.

Decided December 29, 1922.

A. N. Kemp, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

In this application as amended at the hearing, Southern California Edison Company asks permission to issue, pledge and sell $1,761,000 face value of bonds secured by a mortgage and deed of trust dated November 20, 1911, from Pacific Light and Power Corporation to United States Mortgage and Trust Company, trustee.

The Southern California Edison Company has acquired under the authority of Decision No. 4331 in Application No. 2651 the electric generating, transmission and distributing system and other properties of the Pacific Light and Power Corporation. These properties are now and were at the time of their acquisition subject to the mortgage and

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deed of trust dated November 20, 1911, from the Facific Light and Power Corporation to the United States Mortgage and Trust Company, trustee. Applicant reports that it has assumed the due and punctual payment of the principal and interest of all bonds secured by and issued under such mortgage and deed of trust, and under the terms of said mortgage and deed of trust has succeeded to, and been substituted for, Pacific Light and Power Corporation, with the same effect as if applicant had been originally named therein as mortgagor.

The purpose of this application is to make available for construction purposes moneys which otherwise would be used to redeem 5 per cent bonds now outstanding. The $1,761,000 of bonds, which are the subject of this application, will be delivered to the Harris Trust and Savings Bank, who will offer them at not less than par to the United States Mortgage and Trust Company, trustee, under the Pacific Light and Power Corporation mortgage and deed of trust, when such trustee calls for tender of bonds through the operation of the sinking fund. If the bonds offered are accepted by the United States Mortgage and Trust Company, trustee, the proceeds received by the Harris Trust and Savings Bank, trustee, will be placed in a special trust fund and used to reimburse applicant's treasury on account of construction expenditures.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue $1,761,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and pledge or sell at not less than par, $1,761,000 face value of bonds secured by the mortgage and deed of trust dated November 20, 1911, from Pacific Light and Power Corporation to the United States Mortgage and Trust Company, and dispose of the bonds in the manner indicated in this application and expend the proceeds to finance such construction expenditures as may hereafter be authorized by the Commission.

The authority herein granted is subject to further conditions as follows:

1. Southern California Edison Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

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2. The authority herein granted to issue bonds will become effective only upon the payment of the fee prescribed in section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11431.

IN THE MATTER OF THE APPLICATION OF R. W. RASMUSSEN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AUTOMOBILE FREIGHT SERVICE AS A LIMITED CARRIER OF MILK AND CREAM BETWEEN OAKLAND, CALIFORNIA, AND NEWARK, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8375.

IN THE MATTER OF THE APPLICATION OF JOHN F. FARIA FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AUTOMOBILE FREIGHT SERVICE AS A LIMITED CARRIER OF MILK AND CREAM BETWEEN OAKLAND, CALIFORNIA, AND NEWARK, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8376.

Decided December 29, 1922.

BY THE COMMISSION.

ORDER.

In the two proceedings entitled as above, R. W. Rasmussen and John F. Faria have each filed an application with the Railroad Commission in which they apply for a certificate of public convenience and necessity authorizing them to engage as common carriers in the transportation of milk and cream only between Newark, Oakland and certain intermediate points, California. Both applicants claim to have been engaged in this specific service for some time last past, but have never secured a certificate due to the fact that they were in ignorance that the law required a special carrier of their nature to first secure permission before engaging in the transportation of the commodities which they haul.

Both applicants propose to haul milk from Arden, Midway, Newark, Alvarado and San Lorenzo to Oakland at a rate of 18 cents per 10-gallon can from all points except San Lorenzo from which point a rate of 15 cents per 10-gallon can will be charged, empty cans to be carried free. They propose to use in such service one 3½-ton truck, one 2½-ton truck and one 2½-ton trailer, this equipment to be specially constructed for the transportation of milk and cream in a sanitary and clean manner.

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It appears that regular common carriers are not equipped to handle this particular commodity in the most sanitary and advantageous manner, and although letters were addressed to existing carriers informing them of the filing of the present applications and requesting information within ten days as to whether or not they desired to protest the granting of the same, only two replies were received, these from the Southern Pacific Company and the American Railway Express, both of whom stated they had no objection to the granting of such application, provided the certificates were confined to the carrying of milk and cream only.

We are, accordingly, of the opinion that public hearings are not necessary in the above entitled applications and that the applications should be granted.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by R. W. Rasmussen of an automobile truck line as a common carrier of milk and cream only from Newark, Arden, Midway, Alvarado and San Lorenzo to Oakland and return of empty milk cans from Oakland to the above named points; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by John F. Faria of an automobile truck line as a common carrier of milk and cream only from Newark, Arden, Midway, Alvarado and San Lorenzo to Oakland and return of empty milk cans from Oakland to the above named points; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. Applicants Rasmussen and Faria shall file, individually, within a period of not to exceed ten days from date hereof written acceptance of the certificates herein granted; shall file, individually, in duplicate, within a period of not to exceed twenty days from date hereof, tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those as filed by applicants Rasmussen and Faria, in their individual applications herein; and shall each commence operation of the service as herein authorized within a period of not to exceed thirty days from date hereof.

2. The rights and privileges herein granted to the respective applicants herein may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

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3. No vehicle may be operated by either of the applicants in the above entitled proceedings unless such vehicle is owned by them or is leased by them under a contract or argeement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11432.

IN THE MATTER OF THE APPLICATION OF SAN GORGONIA POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCKS AND BONDS AND TO MORTGAGE PROPERTY TO SECURE SAID BONDS, FOR PERMISSION TO ENTER INTO A CERTAIN CONTRACT AND LEASE, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; AND

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, A CORPORATION, TO ENTER INTO A CERTAIN CONTRACT AND LEASE, FOR THE PURCHASE OF POWER.

Application No. 8310.

Decided December 29, 1922.

SECURITIES—BOND PROCEEDS—MORTGAGE PROVISION CONCERNING—COMMISSION'S ORDER SUPERSEDES.—In reference to a condition contained in a proposed mortgage requiring certain stated payments, the Commission held that its order, rather than the terms of the mortgage, govern the use of the bond proceeds.

O'Melveny, Millikin, Tuller and MacNeil, by *Sayre MacNeil* and *Warren Lee Pierson*, for San Gorgonia Power Company.

Henry W. Coil and *E. B. Criddle*, for The Southern Sierras Power Company.
H. L. Carnahan and *Thomas C. Yaeger*, for Coachella Valley County Water District, Protestant.

BRUNDIGE, *Commissioner*.

OPINION.

In this application the Railroad Commission is asked to make its order declaring that public convenience and necessity require San Gorgonia Power Company to construct two small hydro-electric plants near Banning; authorizing it to execute a mortgage and issue $450,000 of first mortgage 7 per cent serial bonds and $500,500 of stock for the purposes indicated below; and permitting it to lease its properties, when constructed, to The Southern Sierras Power Company.

San Gorgonia Power Company was organized on or about February 10, 1922, with an authorized capital stock of $1,000,000, divided into 10,000 shares of the par value of $100 each, all shares being common. The company proposes to deliver $500,000 par value of its stock to acquire the right to use rights and properties from Consolidated Reservoir and Power Company, and to issue $500 par value additional stock to qualify its directors.

Consolidated Reservoir and Power Company was organized in 1909. It is of record that it acquired through purchase certain water rights

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easements and rights of way along the Whitewater river and its branches and undertook the construction of a project for the purpose of securing water for irrigation and domestic use and the generation of electrical energy. It constructed intakes, diversion works, canals, flumes and other properties, which to date have been used only for the purpose of delivering water for irrigation and domestic use. It diverts water from the east branch and the south branch of the south fork of the Whitewater river into the San Gorgonia watershed. From thence it conveys water to the Banning Heights Mutual Water Company to the capacity of the pipe lines of the Mutual Water Company and permits the surplus waters to sink into the soil to augment the underground water supply of the Banning Water Company.

Consolidated Reservoir and Power Company also acquired a tract of land, about 1500 acres, known as the Banning Heights tract in the San Gorgonia Canyon. While the canals of the Consolidated Reservoir and Power Company were being constructed, it subdivided the Banning Heights tract and then organized the Banning Heights Mutual Water Company to operate the water system over the tract and any adjoining lands which may be reached by its system. By an agreement dated December 30, 1913, Consolidated Reservoir and Power Company conveyed to the Banning Heights Mutual Water Company, its successors and assigns the use of all water for irrigation and domestic purposes and the water rights which it had appropriated and then owned and controlled in and from the Whitewater river. The agreement reads in part as follows:

> That the said first party (Consolidated Reservoir and Power Company) for a good and valuable consideration to it in hand paid the receipt of which is hereby acknowledged, does by these presents grant, transfer and convey unto the said second party, (Banning Heights Mutual Water Company) its successors and assigns, the use of all water and the water rights which first party has appropriated and now owns and controls in and from the Whitewater river in Riverside County, California, by second party, and its stockholders, to whom second party may deliver, furnish and distribute the same for irrigation and domestic use only; also the pipe lines, weir, canals and other water conduits heretofore constructed by the said first party, and extending southerly from the second or lower power plant site of the said first party in the San Gorgonia Canyon in said county and state, to the Banning Heights tract, situated on the mesa northerly from Banning in said county and state, and all pipe lines, canals, weirs and other water conduits now being constructed and which may hereafter be constructed over the said Banning Heights tract and adjacent lands for the distribution of such water, to and over the said lands for irrigation and domestic use; and the right to take and divert such water for said uses only from the Whitewater river and conduct and flow such water into, through and by means of the intake, dams, weirs, canals and other water conduits heretofore constructed by said first party from the said Whitewater river, to the said second lower power plant site of the said first party in the said San Gorgonia Canyon, and thence through the lower pipe lines above conveyed to the said Banning Heights tract and other lands for such uses thereon.
>
> The foregoing rights are hereby granted to second party and its successors or assigns subject to the contract heretofore made by the said first party with the Banning Water Company, relating to waste water, and nothing herein shall in any manner interfere with or affect the terms of such contract and the rights of the Banning Water Company thereunder.

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The said first party hereby excepts from the operation of this conveyance and hereby expressly reserves to itself, its successors and assigns the sole and exclusive right to use all such water and water rights, intake, weirs, dams, canals, pipe lines and water conduits and system for power purposes and as power for propelling machinery, generating and developing electric current and all and any purposes which may be used as power at any and all points along the said canals, pipe lines and water systems and to change, if necessary for such use as power, the location, size, character or course of any intake, weir, canal, pipe line or other part of said system, to build reservoirs, and store water for use as power, to erect machinery, power plants or other adjuncts necessary or convenient to use and utilize such water for power purposes; and nothing in this conveyance shall be taken or construed in any manner to affect or militate against the rights hereby reserved as above mentioned, and the right to do all things necessary and convenient, to exercise and carry out and enjoy the rights above mentioned; provided, however, that the rights hereby reserved shall be so exercised, carried out and enjoyed by the said first party, its successors and assigns, in such a manner as not to prevent or materially interfere with the rights to the use thereof for irrigation and domestic purposes by the said second party, its stockholders or other persons to whom second party may furnish and deliver the same.

The agreement further provides that all expenses necessary to maintain the water rights in, and the water system from the Whitewater river to the second or lower power plant site, less whatever portion of such expenses may be paid by or collected from the Banning Water Company under the contract of January 10, 1913, shall be borne and paid by Consolidated Reservoir and Power Company and the Banning Heights Mutual Water Company, or their successors and assigns in equal proportion.

By the agreement of January 10, 1913, between Consolidated Reservoir and Power Company and Banning Water Company, the former agreed to discharge into the San Gorgonia River Canyon its waste or surplus waters.

Consolidated Reservoir and Power Company now proposes to transfer to San Gorgonia Power Company the power rights in all water and water rights which it has heretofore appropriated and now owns and controls in and from Whitewater river and which may be taken and diverted from said river through the present intake to its canal system at an elevation of about 7000 feet and to divert and carry the same therefrom down through San Gorgonia Canyon; also intakes, points of division, canals, pipe lines, weirs and all other water conduits heretofore constructed from said point of intake in the Whitewater river down to a point known as the lower power plant site located at or near what is generally known as "Camp Comfort" in the San Gorgonia Canyon at a point where the canal system connects with the pipe line or canal of Banning Heights Mutual Water Company together with the right to make such changes as may be necessary to use such rights and canal system for the conducting of water as power for propelling machinery and generation of electricity, "and the said water rights and water system are conveyed to said second party (San Gorgonia Power Company) only for use, and said second party, his heirs or assigns, shall use the same only

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for the purpose of power in the generation of electricity." The use of the water rights and water system for power purposes is transferred subject to the agreement between Consolidated Reservoir and Power Company and Banning Heights Mutual Water Company and the agreement between Consolidated Reservoir and Power Company and Banning Water Company, to which agreements reference has been made.

It appears that San Gorgonia Power Company, does not, under the proposed deed, get title to any properties. It merely secures a right, subject to the conditions mentioned and others, to use such properties for power purposes. The deed imposes an obligation upon San Gorgonia Power Company to expend not less than $22,500 in the conservation and distribution of waters in the Whitewater river at or near the intake of the canal system for the purpose of acquiring water in addition to that which naturally flows into the canal system from the Whitewater river, and further requires San Gorgonia Power Company to pay half the cost of a regulating reservoir below the lowest power plant, if Banning Heights Mutual Water Company desires to construct such a reservoir. The deed also requires San Gorgonia Power Company, at its own expense, to permit all water flowing in the Whitewater river at the intake, to flow and be received into the canal system to the extent of not less than its present capacity and to flow through the same and deliver said water into the pipe line or canals belonging to the Banning Heights Mutual Water Company, or into a reservoir constructed by said company or into both a reservoir or pipe lines and canals.

San Gorgonia Power Company requests permission to issue in payment for the rights and properties above described $500,000 of common stock. It is of record that the physical structures described in the application cost $257,382.95 and that the water rights for power purposes have been valued by F. C. Finkle, a witness for the company, at $275,000. Following the hearings in this matter, J. G. Scarborough, a director of Consolidated Reservoir and Power Company, filed a statement in which he reports the cost of the water rights to Consolidated Reservoir and Power Company at $160,000. This covers the cost of the water rights now used to deliver water for irrigation and domestic use and also the rights which would be used to develop electric energy. The $160,000 includes an item of $50,000 said to represent the "purchase of the Banning Water Company's consent to diversion and operation through the San Gorgonia Valley." It appears that there has been allocated to the power project the entire cost of the physical structures and a value of $275,000 for water rights. Inasmuch as the water rights and physical structures of Consolidated Reservoir and Power Company are being and will be used if applicants' plans are consummated, both for the purpose of developing electric power and delivering water for

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irrigation and domestic use, I believe that at least half of the cost of the water rights and physical structures should be allocated to such irrigation and domestic use.

The testimony shows that the $500,000 of stock, if authorized by the Commission, will not be issued to the Consolidated Reservoir and Power Company but to R. R. Scarborough, who under date of November 2, 1921, agreed to acquire the properties and who will presumably assign his agreement to San Gorgonia Power Company. He agreed to pay for the rights and properties $50,000 in cash on the delivery of the deed and assume certain additional undertakings involving the expenditure of approximately $40,000. The cost of the additional undertakings is incorporated in the proposed deed, which is to be executed to the San Gorgonia Power Company. R. R. Scarborough also testified that the San Gorgonia Power Company desired permission to issue bonds to pay the $50,000 which he agreed to pay for the properties and which, acording to his testimony, constitutes a lien thereon. Thus, he would transfer all his liabilities under the agreement to the San Gorgonia Power Company, and if the application were granted, receive $500,000 of the company's common stock. The Commission will not permit the San Gorgonia Power Company to assume the payment of the $50,000. Neither does the Commission believe that the record in this proceeding warrants the issue of more than $100,000 of stock by the San Gorgonia Power Company in payment for the rights and properties which it will acquire under the deed filed in this proceeding.

There exists in the diversion canal available drops or head of approximately 2650 feet. To utilize this fall to generate electric energy, San Gorgonia Power Company proposes to construct two hydro-electric plants. Plant No. 1 located at a point called Big Oaks, will consist of one 1500 kilovolt amperes unit generating under a head of from 1750 to 1779 feet. Plant No. 2 located in what is known as Camp Comfort, will consist of one 900 kilovolt amperes unit generating under a head of from 870 to 895 feet. The energy will be transmitted at 33,000 volts for a distance of ten miles to Banning and from there delivered into The Southern Sierras Power Company system.

In "Exhibit G" San Gorgonia Power Company has submitted an estimate of the cost of its proposed construction work, which summarized is as follows:

Estimated cost of Plant No. 1	$168,992 70
Estimated cost of Plant No. 2	126,273 70
Estimated cost of transmission line	19,565 65
Water conservation work	17,000 00
Contingencies on water conservation work	850 00
Engineering on water conservation work	850 00
Interest during construction	20,000 00
Total	$353,532 05

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To obtain the necessary moneys to carry out its program, San Gorgonia Power Company proposes to issue and sell $450,000 of first mortgage 7 per cent serial bonds. It reports that it has made arrangements to sell its bonds at 93 per cent of their face value. It desires to use the proceeds to pay for the aforementioned construction work and to pay outstanding indebtedness amounting approximately to $65,000. The $65,000 includes the $50,000 which R. R. Scarborough agreed to pay for the properties. The $50,000 is an obligation, which under the circumstances, should not be transferred to San Gorgonia Power Company.

San Gorgonia Power Company asks permission to execute a mortgage to secure the payment of these bonds. The proposed mortgage, a copy of which is attached to the application, provides for a total issue of $450,000 of bonds bearing interest at 7 per cent per annum and maturing serially in varying amounts on the first of October of each of the years 1924 to 1947, both inclusive.

The mortgage provides that $65,000 of bonds be authenticated and delivered to the company forthwith and that $30,000 of bonds be reserved to pay interest during construction. The remaining bonds, or the proceeds from the sale of the remaining bonds, may be drawn down from time to time in amounts not in excess of 75 per cent of the cost of the construction work. Upon 35 days after the completion of the proposed plants, the trustee shall certify and deliver to the company all of the bonds then unissued or pay to it any moneys on deposit with it.

The proposed mortgage contains a condition requiring the company to pay to the trustee annually the sum of $2,000 out of its net earnings, or if the net earnings do not equal $2,000, all of such net earnings until the sum of $40,000 is on deposit, when it can be used for renewals and replacements to its plants and properties.

The order herein will permit the issue and sale of only $400,000 of bonds, and the use of the proceeds for the purposes indicated in the order. The order of the Commission rather than the terms of the mortgage govern the use of the bond proceeds.

San Gorgonia Power Company proposes to lease its properties, when completed, to The Southern Sierras Power Company in accordance with the terms and conditions of a contract and lease entered into by and between the two parties on May 1, 1922. Under the terms of this lease San Gorgonia Power Company agrees to complete its proposed construction work before May 1, 1925. If not completed prior to that date, The Southern Sierras Power Company may terminate the lease. If the plants are completed, the lease is to continue in effect until May 1, 1952. The Southern Sierras Power Company agrees to operate the plants daily to their full capacity from 7 a.m. to 11 p.m. and to pay for the electric energy generated at the rate of .0065 cents per kilowatt hour. The lease contains the following provision relating to operating costs:

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The Sierras Company agrees that after delivery of possession of said plants to it, and during the term of this lease, it will operate the said plants, system, works and machinery, furnish and employ all operators, helpers, laborers and other employes, pay the salaries and wages thereof, and any compensation under the Workmen's Compensation Insurance and Safety Act or similar act of the State of California, furnish and supply all hand tools, oils, greases and other materials and supplies, and make all reasonably necessary replacements, renewals and repairs in and to said plants, system, works and machinery (not including, however, any of the open ditches above the forebays or below the tailraces of either or both of said plants), and will bear and pay the cost thereof up to and including the sum of five hundred dollars ($500) for each of such replacements, renewals or repairs, in consideration of all of which the San Gorgonia Company agrees to pay to the Sierras Company the sum of eight hundred thirty-five dollars ($835) per month on the 20th day of each month after the delivery of possession of such plants to the Sierras Company, and for and during the term hereof, which sum may, at the option of the Sierras Company, be deducted from any sum or sums due from the Sierras Company to the San Gorgonia Company as rental hereunder or otherwise. The San Gorgonia Company agrees to bear and pay the cost and expense in excess of five hundred dollars ($500) for each of such replacements, renewals or repairs, and also the whole cost and expense of all replacements, renewals, or repairs in or to said open ditches above the forebays and below the tailraces of either or both of said plants, and also the whole cost and expense of all other replacements, renewals or repairs not hereinbefore agreed to be borne by the Sierras Company. It is agreed that if several parts of said plants, works or machinery shall fail or become impaired, worn out, damaged, or destroyed at the same time, and as the common result of the same accident, breakdown, occurrence or cause, then all of the replacements, renewals or repairs made necessary thereby shall be considered a single replacement, renewal or repair.

It is thought that the output of these two plants will have a regulatory effect on the southern portion of the system of The Southern Sierras Power Company and in that way, better service conditions. I believe the contract between the two companies, under existing conditions, is a reasonable one and that the Commission should authorize its execution, subject to such changes in the rate from time to time as conditions may warrant.

At the hearing representatives of the Coachella Valley County Water District made formal protest to the granting of this application on the grounds that although the Consolidated Reservoir and Power Company had been diverting water from the Whitewater river for a number of years, it was not entitled to more than the ditch would carry; and secondly, that they were not entitled to use more water for development of power than had heretofore been put to advantageous use, which they claimed does not exceed 150 miner's inches. It appears that the water district has made formal application to the State Water Commission for determination of the rights of all parties to waters of the Whitewater river or its tributaries and that it felt that this Commission should be advised of its position and contention. Of course no order of this Commission can prejudice rights which may be possessed by parties other than Consolidated Reservior and Power Company.

I herewith submit the following form of order:

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ORDER.

Application having been made to the Railroad Commission for a certificate of public convenience and necessity and for an order authorizing the issue of stock and bonds and the execution of a mortgage and lease, public hearings having been held and the Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby declared that public convenience and necessity require the construction by San Gorgonia Power Company of the two hydroelectric plants described in this application.

It is hereby ordered, that San Gorgonia Power Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed in this proceeding and to issue and sell at not less than 93 per cent of face value $400,000 of its first mortgage 7 per cent serial bonds.

It is hereby further ordered, that San Gorgonia Power Company be and it is hereby authorized to issue $100,500 of its common capital stock.

It is hereby further ordered, that San Gorgonia Power Company and The Southern Sierras Power Company be and they are hereby authorized to execute a contract and lease substantially in the same form as that filed with the application herein.

It is hereby further ordered, that this application in so far as it relates to the issue of $400,000 of stock and $50,000 of bonds be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. The authority herein given to execute a mortgage is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

2. Of the stock herein authorized, $100,000 shall be delivered in full payment of the rights and properties described in the deed filed in this proceeding on November 9, 1922, all of which rights and properties must be transferred to San Gorgonia Power Company, if it issues the $100,000 of stock or any part thereof; and $500 shall be sold at par to qualify directors, and the proceeds used to pay organization expenses.

3. The proceeds from the sale of the bonds herein authorized shall be used to pay the cost of constructing the following properties or pay indebtedness incurred:

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Plant number one, about	$158,992 70
Plant number two, about	126,273 70
Transmission line, about	19,565 65
Water conservation work	22,500 00
Contingencies and engineering on water conservation work, about	2,250 00
Interest during construction	20,000 00
To pay indebtedness other than the $50,000 referred to in the preceding opinion, about	12,417 95
Total	$372,000 00

4. The authority herein given to execute a contract and lease is limited in that the approval of the rate of 6½ mills referred to herein is subject to such changes by the Railroad Commission as conditions from time to time may warrant.

5. San Gorgonia Power Company shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein granted to issue bonds will become effective only upon the payment of the fee prescribed in section 57 of the Public Utilities Act.

7. The authority herein granted to issue stock and bonds and to perform other acts authorized by this order will become effective upon the payment of the aforementioned fee but such authority will expire on July 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

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DECISION NO. 11433.

IN THE MATTER OF THE APPLICATION OF R. D. DORRIS FOR PERMISSION TO CARRY PASSENGERS AND FREIGHT BETWEEN NEVADA CITY AND FOREST, CALIFORNIA.

Application No. 7737.

Decided December 29, 1922.

J. M. Walling, for Applicant.
Frank M. Nilon, for Frank Davies, operating as Citizens Auto Stage Company, Protestant.
W. E. Wright, for Henry German.

BY THE COMMISSION.

OPINION ON REHEARING.

A public hearing was held by Examiner Westover at Grass Valley upon the above entitled application seeking authority to operate a passenger and freight line between Nevada City and Forest via Pike and Kate Hardy Mine, a distance of 35 miles.

The matter was heard anew because of petition for rehearing numerously signed by people along the proposed route, pointing out, among other things, that they should not be made to suffer for the mistake of applicant in failing to produce sufficient testimony to show the facts. The Commission by Decision No. 10664 of July 6, 1922, denied the application because the record previously made did not show that public convenience and necessity required the service.

The two terminals are served at present by a freight and passenger line operated by Frank Davies, via Columbia Hill and Alleghany, a distance of 43 miles.

Pike is served at present by a line operated between Pike and Camptonville, where it joins the present line operated between Nevada City and Downieville by Henry German.

It appears from the testimony of applicant Dorris that he has operated over the proposed route, via Pike, with trucks since September, 1917, and that he operated for about five years prior to that with horses and wagons. A regular schedule was not maintained, but there was operation each week, with special trips when requested. Applicant disclaims any statutory right to operate because of his prior operation. He testified that he was ignorant of the law regulating transportation of passengers and property, as adopted by the Legislature in 1917 and 1919, until shortly prior to the filing of his application.

Present carriers do not object to local operation between Nevada City, Snellmans, Clerkins, Plum Valley, Pike, Oregon Creek Mine, Kate Hardy Mine, Aclare Mine, and Lucky Dog Mine; nor such local service between Forest and the above named points and North San

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Juan, but vigorously object to through service between Nevada City and Forest.

The petition recites that there is a population of 45 in the vicinity of Kate Hardy Mine, 10 more in the vicinity of mines three miles to the west, and 53 in the vicinity of Pike, which, as shown above, is now served via Camptonville. The testimony shows that there are but few people directly on the route west of the Kate Hardy Mine, which is 3.7 miles west of Forest. There is no showing that any considerable amount of traffic moves to or from other points along the proposed line than Forest and Kate Hardy Mine.

All of the testimony indicates that the present service over the Davies line between Nevada City and Forest is entirely satisfactory, that this line can handle more business, and that there is not enough through business for two lines.

As the communities along the proposed route have no other means of public service, the local operation may properly be legalized; but the present duly authorized line should be protected in the matter of through service between terminals.

Pursuant to stipulation at the hearing, local service will not be authorized between Nevada City and North San Juan or intermediate points, because of the fact that Mr. German's line operating between Nevada City and Downieville serves that territory.

ORDER ON REHEARING.

A public hearing having been held in the above entitled application, the matter being submitted, and now ready for decision:

The Railroad Commission hereby certifies that public convenience and necessity require the operation by R. D. Dorris of a local passenger and freight service between Nevada City, Snellmans, Clerkins, Plum Valley, Pike, Oregon Creek Mine, Kate Hardy Mine, Aclare Mine, and Lucky Dog Mine; and also such local service between Forest and the above named points and North San Juan.

Nothing herein contained shall be construed as authorizing said R. D. Dorris to operate through service between Nevada City and Forest, or between Nevada City and North San Juan.

1. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

3. *It is hereby ordered,* that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission schedules

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and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

4. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION NO. 11447.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS FIRST MORTGAGE FIVE PER CENT THIRTY-YEAR SINKING FUND GOLD BONDS OF THE PAR VALUE OF $60,000.

Application No. 8509.

Decided December 29, 1922.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

ROWELL, *Commissioner*.

OPINION.

In this application Santa Barbara Telephone Company asks permission to issue and sell at not less than 87½ per cent of face value, $60,000 of its first mortgage five per cent thirty-year sinking fund gold bonds due July 1, 1946, for the purpose of financing the cost of additions and betterments to its plants and properties.

The company reports that up to November 30, 1922, it had expended $153,189.37 for additions and betterments to its plants, against which no stock or bonds have been issued. This amount is obtained in the following manner:

Additions and betterments, July 1, 1916 to November 30, 1916		$18,695 32
Additions and betterments, December 1, 1916 to October 31, 1922		628,988 53
Total		$647,683 85
Less: Organization expenses	$2,947 74	
Depreciation fund invested	48,950 55	
Proceeds from bonds sold under Decision No. 3747	35,633 26	
Proceeds from notes sold under Decision No. 10107	94,500 00	
Replacements and retirements	319,457 31	501,488 86
Total		$647,683 85
Add: Net construction expenditures during November, 1922		6,994 38
Total		$153,189 37

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Applicant now asks permission to use the proceeds from the sale of the bonds covered by this petition to reimburse its treasury, in part, on account of surplus earnings used to pay for additions and betterments.

The bonds herein applied for will be issued under applicant's mortgage of July 1, 1916, securing the payment of $700,000 of first mortgage five per cent thirty-year gold bonds. Of these bonds $382,450 are reported outstanding in the hands of the public and $125,000 are on deposit with the trustee under applicant's collateral trust agreement dated January 1, 1922, to secure the payment of $100,000 of ten-year 6½ per cent notes.

The company reports its assets and liabilities as of October 31, 1922, as follows:

Assets.

Fixed capital		$1,023,379 06
Cash and special deposits		74,536 91
Marketable securities		200 00
Due from subscribers and agents		18,914 18
Materials and supplies		40,585 49
Sinking fund assets		694 03
Depreciation trust fund assets		18,913 95
Prepayments		3,217 13
Unamortized debt discount and expense		14,762 44
Miscellaneous accounts receivable		1,290 06
Total assets		$1,196,493 25

Liabilities.

Capital stock:		
Preferred	$350,000 00	
Common	80,500 00	
		$430,500 00
Funded debt:		
First mortgage bonds	$382,450 00	
Collateral trust notes	100,000 00	
		482,450 00
Accounts payable		23,460 02
Interest and taxes unpaid		8,573 63
Service billed in advance		950 60
Employees benefit fund		4,658 73
Other liabilities		12,768 69
Reserve for accrued depreciation		112,375 98
Surplus		120,755 60
Total liabilities		$1,196,493 25

I believe the application should be granted as herein provided and herewith submit the following form of order:

ORDER.

Santa Barbara Telephone Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required for the purpose specified herein

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and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Santa Barbara Telephone Company be and it is hereby authorized to issue and sell for cash at not less than 87½ per cent of their face value, plus accrued interest, $60,000 of its first mortgage 5 per cent 30-year sinking fund gold bonds for the purpose of reimbursing in part the company's treasury on account of earnings used to pay in part the cost of the additions and betterments referred to in the foregoing opinion.

The authority herein granted is subject to further conditions:

1. Santa Barbara Telephone Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective only when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is $60, and will expire on May 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

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DECISION No. 11448.

IN THE MATTER OF THE APPLICATION OF THE CITY OF DELANO, A MUNICIPAL CORPORATION, FOR PERMISSION TO CONSTRUCT A CROSSING UPON A PUBLIC STREET OVER AND ACROSS THE RIGHT OF WAY AND THE MAIN LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY, A CORPORATION, AND THE SOUTHERN PACIFIC COMPANY, A CORPORATION, WITHIN THE INCORPORATION LIMITS OF THE CITY OF DELANO, CALIFORNIA.

Application No. 7407.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE SAFETY AND NECESSITY OF THE SEVERAL PUBLIC GRADE CROSSINGS OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY IN THE CITY OF DELANO, COUNTY OF KERN, STATE OF CALIFORNIA.

Case No. 1800.

Decided December 29, 1922.

Allen B. Campbell, J. C. Dorsey and *W. P. Grijalva*, for the Board of Trustees of the City of Delano.
Frank E. Green, for the Delano Chamber of Commerce.
H. H. Gogarty and *E. T. Langdale*, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

The above application, No. 7407, is for authority to install a crossing at grade over the tracks of the Southern Pacific Company at Fourth avenue, Delano, and Case No. 1800 is the Commission's investigation of the general grade crossing situation in Delano. Examiner Westover held public hearings upon both matters at Delano.

The tracks extend north and south through Delano paralleling Seventh street to the west and Eighth street to the east, which is also the route of the paved state highway which crosses the tracks at an angle of about 45 degrees near the southern city limits, and about 1300 feet south of the proposed crossing at Fourth avenue described in application No. 7407.

The present public crossings in Delano are at Eleventh, Twelfth and Thirteenth avenues, which are 480 feet apart, and at Cecil street, about 1200 feet north of the Thirteenth avenue crossing. The principal east and west roads leading into Delano are the paved Porterville highway, extending easterly from Fourth avenue several miles and thence northerly to Porterville, about 30 miles away, and an unpaved county road extending westerly from Fourth avenue some 6 or 8 miles; and a road extending for several miles east and west which crosses the tracks at Cecil street at the northerly city limits. The main street of Delano is Ninth street and the principal east and west cross street Eleventh avenue.

The principal shipments from Delano are canteloupes, watermelons and lettuce, a traffic which the testimony shows is increasing very

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rapidly. It appears from the testimony of the president of the Melon Growers' Association that nearly all of this traffic is from the territory east of Delano and that it comes in on the two roads above described and is destined for the lettuce packing plant west of the tracks near Tenth avenue, where most of it is loaded, although there is some testimony in the record to the effect that a good many watermelons are loaded direct to the cars on the new siding which serves the packing plant, at points between it and Sixth avenue. He also testifies that he contemplates building a packing plant on property owned by him a short distance north of Fourth avenue and west of the tracks in Block "P" if the Fourth avenue crossing is to be opened. There are two cement pipe yards and the yards of the State Highway Commission between the tracks and Seventh street and Fifth and Seventh avenues. There is a private crossing just north of Seventh avenue about 1800 feet south of the Eleventh avenue crossing over the property of the Southern Pacific Company and Union Lumber Company, which crossing the lumber company proposes to close. The manager of the lumber company estimates the travel over it at 25 autos per day beside 8 or 10 trucks per day during the winter season hauling cement pipe from the two yards. Most of this traffic, it is anticipated, would use the proposed Fourth avenue crossing if it were installed. The territory between Fourth avenue and Eleventh avenue, it is anticipated by witnesses, will eventually be used principally for packing and shipping facilities.

The loading corral is east of the tracks between Eighth and Ninth avenues and the principal slaughterhouse is some distance west of Fourth avenue on the county road leading from it. It appears from the testimony that cattle are driven in from the east and west along this road and the Porterville highway for loading at the corral and for slaughter at the slaughterhouse, the owner testifying that he buys cattle for slaughter at points several miles east of Delano tributary to the Porterville highway.

The high school is located to the east of the tracks, the grammar school to the west of the tracks just south of Thirteenth avenue and north of Twelfth avenue, and a second grammar school is under construction to the east of the tracks which when completed will eliminate the necessity for a considerable portion of the present schoo. traffic across the railroad both on foot and in busses. Most of the business houses and residences of Delano are east of the tracks.

The Cecil street crossing and the Thirteenth avenue crossing, about 1200 feet to the south of it, cross only the main line track; the Twelfth avenue crossing crosses two tracks while the Eleventh avenue crossing is over four tracks and the proposed crossing, about 3200 feet south, is also over four tracks. The view at Cecil street, Thirteenth

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avenue and Twelfth avenue is practically unobstructed; but at the Eleventh avenue crossing there is a large warehouse on the southeast corner extending to within 10 feet of the sidetrack on which standing cars may still further obstruct the view. The view at the northeasterly corner is also partly obstructed by a small building and tree, both on Southern Pacific property, both of which could undoubtedly be readily removed. At the proposed Fourth avenue crossing the view would not be seriously obstructed, except when cars stand on the sidings adjacent to the main line track.

The Southern Pacific objects to the granting of this application on the ground that the installation of this second crossing through its yards will constitute an additional hazard and impede traffic because it will involve cutting many westbound freight trains while necessarily stopping to take water at Delano. A check of twelve days shows that an average of nine passenger and eight freight trains per day are operated through Delano. Of these there were an average of three westbound freight trains daily, sufficiently long to block the proposed crossing when taking water. It also appears from the testimony that more trains are worked in that part of the yard and there is apt to be more obstruction to view from standing cars, than at Eleventh avenue.

At the first hearing upon application No. 7407 a question arose as to the need for an additional crossing and as to the desirability of closing at least one of the present crossings if the additional crossing were opened, and whether the general question of grade crossings in Delano could be inquired into under the application. The Commission therefore instituted an investigation of the situation under Case No. 1800, and the entire crossing situation in Delano was gone into at the second hearing. Meanwhile traffic counts at the Eleventh, Twelfth and Thirteenth avenues crossings were prepared, those in June and July by the Southern Pacific Company at the request of the Commission, and those in October and November by the city. The results of these are shown in the following table:

Traffic at Grade Crossings in the City of Delano at Eleventh, Twelfth and Thirteenth Avenues.

Date	Vehicles	Occupants	Pedestrians
Eleventh Avenue—			
June 28, 1922	369	---	230
July 13, 1922	421	---	385
July 16, 1922	359	---	341
Oct. 19, 1922	255	360	462
Oct. 20, 1922	221	360	475
Oct. 26, 1922	259	402	552
Oct. 27, 1922	199	370	335
Nov. 2, 1922	208	362	484
Nov. 3, 1922	186	306	575
Average	275	360	426

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Twelfth Avenue—			
June 28, 1922	88	---	67
July 13, 1922	99	---	88
July 16, 1922	43	---	33
Oct. 19, 1922	166	223	275
Oct. 20, 1922	121	223	252
Oct. 26, 1922	162	284	241
Oct. 27, 1922	102	160	161
Nov. 2, 1922	136	270	224
Nov. 3, 1922	128	181	238
Average	116	223	175
Thirteenth Avenue—			
June 28, 1922	47	---	5
July 13, 1922	62	---	11
July 16, 1922	24	---	11
Oct. 19, 1922	98	330	102
Oct. 20, 1922	111	324	110
Oct. 26, 1922	96	330	111
Oct. 27, 1922	75	300	63
Nov. 2, 1922	83	325	116
Nov. 3, 1922	84	307	115
Average	76	319	71

NOTE.—Counts on June 28, July 13 and July 16 were for hours of from 6 a.m. to 6 p.m. Counts on October 19, October 20, October 26, October 27, November 2, and November 3 were from 7 a.m. to 5.15 p.m.

Against the additional hazard and interruption to train operation incident to opening another crossing at Fourth avenue through the railroad yards is a considerable public convenience to be considered. For traffic destined to the packing shed at Tenth avenue and Seventh street from points on the Porterville highway southeast of Delano, the proposed crossing would save an extra haul of about 2 blocks, but would involve a haul of 6 blocks over unpaved Seventh street instead of paved Eighth street. The cement pipe traffic referred to moves in all directions from the yards but principally to the agricultural territory east of Delano. That portion of it destined for points on the Porterville highway (the proportion of which was not shown) could save a haul of 4 or 5 blocks to Eleventh avenue over Seventh street and an equal distance south to Fourth avenue over the paved highway or Eighth street, by using a crossing at Fourth avenue.

We conclude from the facts shown above that the public convenience shown does not offset the hazard to public safety and interference with rail traffic shown, and that the evidence herein presented does not justify the opening of the crossing at this time, although anticipated growth in traffic may do so in the future.

In reaching this conclusion we have used the testimony concerning melons and lettuce shipments most favorable to applicant to the effect that nearly all of this traffic originates east of Delano, rather than testimony estimating that 25 per cent the proportion of agricul-

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ural products originating at points along the Porterville highway southeast of Delano.

Part of the need for a crossing at Fourth avenue would be relieved if the city would extend Seventh street south to a connection with the paved state highway near the city limits where the highway crosses from the east side of the tracks. For traffic between points westerly of Delano and points south on the highway this would avoid the necessity of crossing the tracks twice at Eleventh avenue and the highway crossing south of town. If there were a crossing at Fourth avenue this traffic last referred to would still need to cross the tracks twice in the absence of an outlet to the highway by a road or street west of the tracks. There is occasional travel over this route at present but it is over private property without authority. Such an extension of Seventh street or some connection with the highway south of town would tend to develop Seventh street south of Tenth avenue, which is intended for industrial uses, to a point where it might be possible to show sufficient public necessity and convenience to justify a crossing at or near Fourth avenue. The cost of such an extension may prove upon investigation to be little, if any more than that of the proposed crossing.

As to the existing crossings and their protection, it will be seen that on the busiest days checked the average frequency of the combined traffic over the three crossings at Eleventh, Twelfth and Thirteenth avenues was less than one vehicle per minute. The view is unobstructed at the crossings north of Eleventh avenue. It affirmatively appears from the testimony that there has never been an accident at either crossing. The population of Delano appears from the testimony to be 800 according to the last census, and 1700 by recent estimates of the Chamber of Commerce. The testimony does not show such a dangerous condition at either of the present crossings as to require its closing at the present time.

We conclude that no additional protection is needed, as the traffic shown does not justify the expense of maintaining gates or a human flagman, and it is probable that an automatic flagman at the Eleventh avenue crossing would not give adequate protection because this crossing is within the railroad yards where there is considerable switching, and cars are frequently left standing on the main line track during switching operations.

ORDER.

Public hearings having been held upon Application No. 7407 and Case No. 1800, both matters having been submitted and now being ready for decision;

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It is herey ordered, that Application No. 7407 be and it is hereby denied, and that Case No. 1800 be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of December, 1922.

DECISION No. 11451.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE SALE AND CONVEYANCE OF PROPERTIES; THE DETERMINATION OF A FAIR AND REASONABLE VALUE OF THE PROPERTIES TO BE SOLD AND CONVEYED; AUTHORIZING THE APPLICANTS TO CEASE FURNISHING ELECTRIC SERVICE IN THE TERRITORY MENTIONED HEREIN.

Application No. 7556.

Decided December 29, 1922.

TRANSFER—ELECTRIC PROPERTIES—REASONABLE PRICE.—The Commission holds that the value which might be determined for condemnation purposes represents the reasonable price for which two public utilities should be authorized to exchange properties. The price approved under the conditions presented, is that represented by the historical cost of the properties, less the reasonable depreciation accrued by each party in the normal operation of its business.

Charles P. Cutten, for Pacific Gas and Electric Company.
Chickering and Gregory, by *Allen Chickering,* for Western States Gas and Electric Company.

MARTIN, *Commissioner.*

OPINION.

Applicants, Pacific Gas and Electric Company and Western States Gas and Electric Company, have entered into a certain agreement dated December 1, 1921, for the transfer of certain electric distribution properties near Stockton and Lodi whereby they will eliminate present unsatisfactory conditions of competition and duplication of system. The property desired to be transferred consists of certain distribution lines and equipment of Pacific Gas and Electric Company which will be conveyed to Western States Gas and Electric Company, and certain distribution lines of that company which will be conveyed to Pacific Gas and Electric Company.

The applicants ask, in effect, that the Commission fix and determine the fair and reasonable value for the purpose of sale and purchase of the properties to be transferred by each company to the other; that the Commission authorize the transfer of the properties as described in the contract and inventory and appraisals submitted at the values determined, and that it authorize Pacific Gas and Electric Company to cease furnishing electric service in the territory served by means of the prop-

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erty to be transferred to Western States Company, and the Western States Gas and Electric Company to cease furnishing service in the territory served by means of the lines it proposes to transfer to Pacific Company.

It is urged that the transfer is advisable as it will eliminate existing duplication of electric transmission and distribution lines and prevent future duplication, with resultant benefits to the utilities and to the consumers in less cost and better service. Applicants also filed a supplemental petition at the hearing, which sets forth the corrected description of the properties to be transferred, including an inventory and appraisal of properties as of April 1, 1921.

The agreement dated December 1, 1921, between the two parties, filed as Exhibit A in this proceeding, provides, in detail, for the transfer of the properties and business of each company and delineates on maps attached thereto the location of the same, showing the proposed division line between the territory to be served by each company. If the transfer is consummated, Western States Gas and Electric Company will take over and operate all electric distribution lines, serving consumers within the territory near Stockton, generally bounded on the north by the Calaveras River, east by the Diverting Canal, on the west by the San Joaquin River and on the south by a line approximately four miles south of French Camp, designated upon the maps attached to the contract. Certain transmission and main distribution lines are retained by the Pacific Company for transmission of power through the district. Pacific Gas and Electric Company will take over Western States Company's lines outside of this district. Western States Gas and Electric Company agrees, in addition, to construct an 11,000-volt transmission line north of the Calaveras River, to replace one now owned by the Pacific Company south of the river. The territory from which Pacific Company will withdraw, in and about Lodi, is bounded on the south by a road known as "Hogan's Lane" and an extension thereof, on the west by a zigzag line, generally located between existing distribution lines of the two companies, on the east by the eastern boundary of San Joaquin County. There is no boundary on the north.

Applicants request the Commission to find the fair values of these properties for the purpose of purchase and sale, and further request that these values be designated as the amounts to be paid by each party for the property which it is to receive in the event that the mutual transfer herein discussed be consummated. Applicants request that the Commission authorize them, in effect, to transfer the properties on the same basis as might be determined were the properties being condemned. Evidence as to the matter of such values was introduced at the hearing and this evidence has been carefully considered by the Commission.

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It does not appear that the value which might be determined for condemnation purposes represents the reasonable price for which these utilities should be authorized to exchange these properties. Both parties are public utilities whose properties have been dedicated to public service and whose rates are subject to regulation by this Commission. Duplication exists in the systems, which upon transfer, will result in the taking down of certain lines and reducing them to a salvage value.

The price at which this Commission will approve the purchase and sale of properties under the conditions in this case is represented by the historical cost of the properties less the reasonable depreciation accrued by each party in the normal operation of its business. From analysis of the evidence it appears that these amounts are as follows:

Properties to be transferred to Western States Gas and Electric Company:

Historical cost less depreciation, April 1, 1921	$92,015 00
Additions and betterments to June 1, 1922	12,206 00
Total	$104,221 00

Properties to be transferred to Pacific Gas and Electric Company:

Historical cost less depreciation, April 1, 1921	$37,977 00
Additions and betterments to June 1, 1922	4,718 00
Total	$42,695 00

It is the opinion of the company's representatives and also of the Commission's engineers investigating the matter, that it will be of benefit to the public that an elimination of duplication and competition be had. The territory in question is too sparsely settled to justify the existence of two utilities under any circumstances and the elimination of the competition I find to be a justification for the transfer.

An investigation of the rates of the two utilities indicates that in general, the rates of Pacific Gas and Electric Company, in this district, are higher than those of Western States Gas and Electric Company, although certain consumers will be reduced if they are placed on Pacific Company's rates, and similarly certain consumers will be raised by transfer to Western States Gas and Electric Company. There is before the Commission at the present time for decision a proceeding for the fixing of rates of the Pacific Gas and Electric Company. A proceeding is also pending before the Commission for the fixing of rates of the Western States Gas and Electric Company. It appears that upon the transfer of the properties under consideration herein, the present rates in effect to the consumers should continue until the rates are fixed in the proceedings now pending on the respective companies' systems at which time the new rates should become effective, unless in the meantime individual consumers elect to take service under the purchasing company's rates.

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Both Pacific Gas and Electric Company and Western States Gas and Electric Company hold certain deposits for extensions or guarantee of bills of their consumers. Upon the transfer of the properties a settlement of these deposits should be had for consumers to be transferred either by the transfer of the same to the company purchasing the system or by a return of deposits to consumers. The order herein will require that prior to the final transfer of the property, applicants shall submit to the Commission a definite plan satisfactory to the Commission for the handling of these deposits.

I submit the following form of order:

ORDER.

Pacific Gas and Electric Company and Western States Gas and Electric Company having filed with the Commission a petition for authorization of sale and conveyance of properties and the determination of the fair and reasonable value of properties to be transferred and the cessation of serving in certain territory, hearing having been held and the matter submitted and ready for decision, and the Commission being of the opinion that it is in the public interest that the transfer be made;

It is hereby ordered, as follows:

1. That Pacific Gas and Electric Company be, and the same is hereby authorized, to sell and convey to the Western States Gas and Electric Company, and the Western States Gas and Electric Company to purchase from Pacific Gas and Electric Company all of the property which Pacific Gas and Electric Company has agreed to sell and convey unto the Western States Gas and Electric Company for the sum of $104,221, plus the cost of net additions and betterments to said properties made on and after June 1, 1922, as provided in that certain agreement dated December 1, 1921.

2. Western States Gas and Electric Company be, and the same is hereby authorized to sell and convey to Pacific Gas and Electric Company, and Pacific Gas and Electric Company to purchase from Western States Gas and Electric Company, all of the property which Western States Gas and Electric Company has agreed to sell and convey to the Pacific Gas and Electric Company, as provided in that certain agreement dated December 1, 1921, for the sum of $42,695, plus the cost of all net additions and betterments to said properties made on and after June 1, 1922.

3. Pacific Gas and Electric Company is hereby authorized to cease furnishing service to the public in the territory served by means of the property which Pacific Gas and Electric Company has agreed to sell and convey to Western States Gas and Electric Company, or any extensions thereof or additions thereto, effective concurrently with the date of transfer of properties herein authorized.

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. Western States Gas and Electric Company is hereby authorized to se furnishing electric service to the public in the territory served by ans of the property which the Western States Gas and Electric Com- ıy has agreed to sell and convey to Pacific Gas and Electric Company any extension thereof or addition thereto, except as provided in said eement of December 1, 1921, effective concurrently with the date of transfer of properties herein authorized.

. Pacific Gas and Electric Company and Western States Gas and ctric Company file with this Commission statements of all deposits hand as of January 1, 1923, from consumers served from the systems ein authorized to be transferred, together with a definite plan for disposition of the same.

The above authorization shall be applicable to such transfers as shall made on or before April 1, 1923.

The above opinion and order are hereby approved and ordered filed the opinion and order of the Railroad Commission of the State of lifornia.

Dated at San Francisco, California, this twenty-ninth of December, 22.

DECISION No. 11456.

THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE SEVEN HUNDRED FIFTY THOUSAND DOLLARS PAR VALUE OF ITS COMMON CAPITAL STOCK.

Application No. 8452.
Decided December 30, 1922.

URITIES—AUTHORITY TO ISSUE COMMON STOCK—RESERVE TO BE INCREASED.—The Commission finds that the company's reserve for accrued depreciation is inadequate and that it should transfer from its surplus to the reserve a sum sufficient to bring the reserve up to $1,160,682.01 on December 31, 1921.

oy M. Edwards, for Applicant.

NEDICT, *Commissioner.*

OPINION.

In this application, Southern Counties Gas Company of California ks permission to issue forthwith 7500 shares of its common capital ock, of the aggregate par value of $750,000, in payment of a stock vidend.

Southern Counties Gas Company of California reports an authorized pital stock of $5,000,000 divided equally into common and eight per nt preferred stock. It appears that on October 31, 1922, $1,500,000 common and $1,160,400 of preferred were issued and outstanding.

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On the common stock dividends were paid during 1918 at the rate of three per cent; during 1919 at the rate of four and one-half per cent; during 1920 at the rate of eight per cent; and during 1922 at the rate of nine per cent per annum.

The company reports its assets and liabilities as of October 31, 1922, as follows:

ASSETS.

Fixed capital:		
Intangible capital	$1,081,434 94	
Tangible	10,041,006 19	
Total fixed capital		$11,122,441 13
Current assets:		
Cash	$110,713 80	
Accounts and notes receivable	327,247 73	
Interest and tax funds	596,696 49	
Sinking fund	91,666 00	
Materials and supplies	350,278 43	
Total current assets		1,476,602 45
Deferred charges:		
Unamortized discount and expense	$605,037 03	
Taxes, insurance and miscellaneous	260,756 16	
Total deferred charges		865,793 19
Total assets		$13,464,836 77

LIABILITIES.

Capital stock:		
Common	$1,500,000 00	
Preferred	1,160,400 00	
Installments on preferred stock	61,262 50	
Total capital stock		$2,721,662 50
Funded debt:		
First mortgage 5½'s, due 1936	$6,110,900 00	
Second mortgage 6's, due 1924	700,000 00	
Collateral trust notes, 8's, due 1930	809,700 00	
Total funded debt		7,620,600 00
Current liabilities:		
Notes payable	$10,000 00	
Accounts payable	1,130,126 09	
Total current liabilities		1,140,126 09
Reserves:		
Accrued depreciation	$725,180 47	
Contingencies, taxes, etc.	199,085 68	
Contingent debt	35,396 67	
Total reserves		959,662 82
Appreciation of property value		84,044 99
Earned surplus		938,740 37
Total liabilities		$13,464,836 77

Section 52 of the Public Utilities Act enumerates the purposes for which a public utility may issue stock, reading in part as follows:

A public utility may issue stock and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the

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thereof for the following purposes and no others, namely, for the acquisition of
erty, or for the construction, completion, extensions or improvement of its facili-
or for the improvement or maintenance of its service, or for the discharge or
ful refunding of its obligations, or for the reimbursement of moneys actually
nded from income or from other moneys in the treasury of the public utility
secured by or obtained from the issue of stock or stock certificates, or bonds,
s or other evidences of indebtedness of such public utility for any of the aforesaid
oses except maintenance of service and replacements, in cases where the appli-
shall have kept its accounts and vouchers for such expenditure in such manner
o enable the commission to ascertain the amount of moneys so expended and the
oses for which such expenditure was made.

The Commission can not authorize the issue of stock directly for the pose of paying a dividend but can authorize the issue of stock for purpose of enabling a utility to reimburse its treasury as provided ection 52 of the Public Utilities Act.

In order authorizing applicant to issue stock to reimburse its treasury uires a determination of the sources from which applicant has ained the moneys expended. Applicant's balance sheet as of Octo- 31, 1922, shows a surplus of $938,740.37, an amount in excess of the 0,000 of stock which it desires to issue. The $938,740.37 has n invested in property. But an analysis of applicant's financial ements shows that the surplus was built up in part because prior to 8 applicant included very small amounts in its operating expenses account of depreciation. Had applicant made proper allowance in operating expenses for depreciation, it would not have the surplus orted on October 31, 1922. The Commission's engineering depart- nt has reviewed applicant's "Exhibit 4" and reports that applicant, of December 31, 1921, should have had in its reserve for accrued reciation $1,160,682.01 instead of $616,010.97 as reported by appli- t. It therefore appears that applicant, assuming its depreciation wance during 1922 to have been correct, had on October 31, 1922, ly a surplus of only $385,069.29 instead of $938,740.37. Applicant uld transfer from its surplus to its reserve for accrued depreciation um sufficient to bring its reserve for accrued depreciation as of ember 31, 1921, up to $1,160,682.01. The reserve for accrued depre- ion should be built up by the transfer of the necessary amount from licant's accumulated surplus rather than from future earnings. the condition that the transfer is made, the Commission will permit licant to issue $375,000 of stock to reimburse its treasury and dis- ute such stock as a dividend.

herewith submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the lroad Commission for permission to issue $750,000 of its common ck, a public hearing having been held and the Railroad Commission ng of the opinion that the company should be permitted to issue

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$375,000 of common stock, and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue $375,000 of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in property.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted will become effective upon the date of the transfer from applicant's surplus account to its reserve for accrued depreciation the amount indicated in the foregoing opinion and such authority will expire on May 1, 1923.

(2) The stock herein authorized shall be issued at par and after reimbursing applicant's treasury may be distributed by applicant, as permitted by law, to its stockholders as a stock dividend.

(3) Applicant shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that this application in so far as it relates to the issue of $375,000 of stock be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of December, 1922.

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DECISION No. 11457.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC ENERGY.

Application No. 5567.

CITY OF SACRAMENTO

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 930.

CITY OF GRASS VALLEY

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 996.

CITY OF OAKLAND

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 1203.

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION,

vs.

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, CITY ELECTRIC COMPANY, A CORPORATION, UNIVERSAL ELECTRIC AND GAS COMPANY, A CORPORATION, AND SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION.

Case No. 840.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, FOR AN ORDER FIXING THE RATES TO BE CHARGED BY IT FOR ELECTRICITY AND WATER.

Application No. 3602.

W. F. WHEELER ET AL.

vs.

THE SIERRA AND SAN FRANCISCO POWER COMPANY.

Case No. 748.

PETER KNOLLENBURG ET AL.

vs.

THE SIERRA AND SAN FRANCISCO POWER COMPANY.

Case No. 934.

C. E. MOEHRLE ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 1669.

Decided December 30, 1922.

RATE BASE—STRUCTURAL PROPERTY.—In the interest of both consumers and utility the rate base upon which a fair return is to be calculated in fixing reasonable rates must be largely controlled by historical reproduction cost. In the case of property constructed for other purposes and later devoted to public use in the production of electric power, historical reproduction cost for purpose of fixing electric rates is held to be the reasonable cost of reproduction as one devoted to electric operation rather than actual cost when built.

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RIGHT OF WAY EASEMENTS.—Right of way easements do not have the same general use and market value as have lands owned in fee. In the absence of better evidence, the cost of acquisition will be taken as the market value to be included in the rate base.

WATER RIGHTS.—The capitalization of possible savings in the cost of production of power through the use of particular water rights as compared with the production of power from other hydroelectric or steam sources is not a sound basis for the valuation of water rights as a basis for the fixing of rates. The most reliable estimate of the value of the water rights was based upon the estimated present cost of acquisition of similar rights.

DEVELOPMENT COST—GOING VALUE.—Where the promotion and early development of a utility is very largely carried on in the interest of one large and closely allied consumer, an accumulated deficit of earnings below the cost of money can not properly be included in the rate base when fixing reasonable rates to be charged to the general public. No allowance is made for going value in the rate base.

RATE OF RETURN—FEDERAL INCOME TAX.—While a rate of return of 8 per cent in many instances had been found reasonable in past years, growth in extent and diversity of business, elimination of competition and more general recognition of the basic character of the electric utility industry all tended to increase the safety of the investment and justify a reduction in the rate of return. A fair rate of return was 8 per cent including federal income tax which was declared to be equivalent to 7.6 per cent after payment of income tax.

DEPRECIATION.—Amounts included in rates on account of depreciation annuity are paid by consumers for a definite purpose and may be used by the utility for that purpose only and the utility may be required to account to the depreciation reserve for the annuities which are included in rates and for interest upon the reserve, annuities being based upon the 6 per cent sinking fund method.

Depreciation reserve is the property of stockholders but is also a part of the property used in the public service and therefore subject to regulation by the Commission. Utility is required to transfer from surplus to depreciation reserve a sum sufficient to bring the reserve up to the amount estimated to be correct.

OPERATING CHARGES—STATE TAXES.—The state tax which becomes a lien upon the property in March is held to be a reasonable charge for operating expenses for the calendar year although it is payable in two installments, one in July and one in January of the following year. The utility is permitted to accrue taxes from rates in advance of payments made to the state but it is held that the average amount accrued for taxes and held by the utility pending payment to the state should be deducted from the amount of working cash capital necessary.

C. P. Cutten, for Pacific Gas and Electric Company.
George Lull and *John J. Dailey*, for City of San Francisco.
Leon E. Gray and *H. L. Hagan*, for City of Oakland.
Frank V. Cornish, for City of Berkeley.
Archer Bowden, for City of San Jose.
D. T. Jenkins, for City of Los Gatos.
E. H. Armstrong, for City of Grass Valley.
F. T. Nilon, for Nevada City.
Archibald Yell, *R. L. Shinn* and *C. J. Hasman*, for City of Sacramento.
L. B. Leavitt, *C. C. Isaacson and Wilson*, for City of Vallejo.
H. P. Hatfield, for Chamber of Commerce of Vallejo.
J. Oscar Goldstein, for City of Chico.
T. C. Judkins, for Town of Emeryville.
A. F. Bray, for City of Martinez.
A. J. Carlson, for City of Modesto.
Wm. N. Graybeil, for City of Turlock.
C. H. Frey and *H. G. Butler*, for California Metal and Mineral Producers' Association.
John T. York, for City of Napa.
Mrs. Lydia Wolf, for California Federation of Housewives' Leagues, Oakland.

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Hector A. Dunn, for California Federation of Housewives' Leagues, Oakland.
Heller, Powers and Ehrman, for Patterson Water Company and Sacramento Northern Railway.
Raymond A. Leonard, for City of Oroville.
J. F. Pollard, for Coast Valleys Gas and Electric Company.
L. F. Leurey, for Sperry Flour Company and National Carbon Company, San Francisco.
Robinson and Price, for California Manufacturers Association, Alameda Sugar Company et al.
Chickering and Gregory, for Western States Gas and Electric Company.
B. S. Crittenden, for City of Tracy, West Side Irrigation District, Naglee-Burk Irrigation Company and Riverview Land and Water Company.
Wm. M. Abbott, for United Railroads of San Francisco.
A. A. De Ligne, for F. H. Harvey of Galt.
Geo. E. Springer and *H. H. Hewitt*, for Reclamation District No. 17.
H. C. Bell, for Town of Willows.
J. M. Inman, for Pacific Rice Growers' Association.
W. D. Tillotson, for City of Redding.
Connick and Kehoe, and *A. K. Harford*, for Universal Gas and Electric Company.
W. H. Kehoe, a consumer, *in propria persona*.
Geo. A. Work, for Town of Rio Vista.
Hankins and Hankins, for Glenn-Colusa Irrigation District.
A. H. Quatman, for Glenn County Rice Growers' Association.
J. A. Bruner, for City of San Leandro.
E. H. Barber, Trustee, Reclamation District No. 348.
Chas. W. Slack and *Edgar T. Zook*, for Natomas Company of California and Yuba Consolidated Gold Fields.
Louis Oncal, for Peninsular Railway Company and San Jose Railroads.
Morrison, Dunne and Brobeck, for Santa Cruz Portland Cement Company, Standard Portland Cement Company, Pacific Coast Portland Cement Company, Consolidated.
J. C. Brown, for Town of Cottonwood.
C. D. Salfield, for Haight and Ashbury Improvement Association.
H. H. North, a consumer, *in propria persona*.
W. J. Eyand, for Dixon Alfalfa Growers' Association.
Moody and Bell, for Princeton-Cordova-Glenn Irrigation District and Jacinto Irrigation District.
Geo. W. Ashley, for American Federation of Farmers.
Green and Sinclair, for Town of Antioch.
John Spellman, *in propria persona*.
P. Freytaz, for Town of Kentfield.
W. A. Sherman, for California Association of Ice Industries.
R. T. McKissick, for O. A. White and others.
N. C. Jessic, for Butte County Farmers Association.
A. W. Morris, for Woodland District.
J. T. Butler, for Farm Bureau Centers of Glenn and Tehama Counties.
W. H. Walker, for California Farm Bureau Federation.
J. N. Watt, for Committee of the Federation of American Farmers, representing rice growers, also the rice growers of East Nicolaus.
E. K. Clendenning, for Orchard City Orange Organization.
Mrs. Theodore Verling, for Walnut Creek.
J. Meyer, for Avena District.
Geo. C. Edwards, *in propria persona*.
W. E. Ledieu, Redwood City consumer, *in propria persona*.
E. A. Shumway, *in propria persona*.
F. J. Michael, *in propria persona*.
James Mills, for James Mills Orchard Corporation.
C. L. Firebaugh, for Alameda Sugar Company.
H. Lederer, *in propria persona*.
T. J. Henderson, for Federation of American Farmers of Santa Clara County.
B. E. Conway, for rice growers on the Conway Ranch.
Luke W. Peart, *in propria persona*.
Wilber Walker, for Merchants Exchange of Oakland.
P. E. Landfield, for Yolanda Improvement Club.
Geo. H. Sawyer, for Stanislaus County Farm Bureau.

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F. B. Glenn, for power users in Glenn County.
A. Marcus, in propria persona.
A. A. Oliver, for Oliver Salt Company.
R. N. Wolf, for City of Pittsburg.
Lovett K. Fraser, for City of Albany.
E. N. Randall, for City of Corning.
W. J. Locke, for City of Alameda.
R. L. Brock, for Shaw Ranch Company.
J. J. McDonald, for Federation of American Farmers.
Hugo Scheunert, in propria persona.
F. W. Larson, in propria persona.
R. A. Sarle, in propria persona.
R. V. Lammiman, for Federation of American Farmers, Modesto.
W. J. Jamnyks, in propria persona.
S. P. Dingemore, in propria persona.
Geo. C. Ellis, for Ellis and Ayers.
W. W. Thornton, in propria persona.
J. E. Riddle, for Federation of American Farmers.
E. K. Ellsworth, for Paradise Farm Center.
Purcell Rowe, for Reclamation District No. 501.
Bacigalupi and Elkus, by Peter S. Sommer, for Provident Irrigation District and Maxwell Irrigated Farms Company.
J. F. Butler, for Capay and North Capay Farm Centers.
John F. Davis, for cities of San Bruno and Burlingame.
T. J. Mulvany, in propria persona.
F. S. Brittain, for California Farm Bureau Federation and Fred H. Harvey.
H. F. Chadbourne and *John S. Partridge*, for Cowell Portland Cement Company.
Mrs. W. T. Cleverdon, for California State Housewives' League.
Mrs. May Larkin Marston, for Alameda Housewives' Branch of the State Housewives' League.
L. B. Gurney, for Yuba-Sutter Irrigators and Brown Valley Irrigation District.
Wm. E. Harvent, for State Housewives' League.
H. W. Crozier, for James Mills Orchards Corporation and Esperanza Land Corporation.
John J. Dailey, Leon E. Gray, Frank V. Cornish and *Archer Bowden*, for cities of Sunnyvale, Pacific Grove, Daly City, Morgan Hill, Petaluma, Colusa, Healdsburg, Marysville, Hamilton City Chamber of Commerce, Oakdale, Woodland, Pittsburg, Emeryville, Red Bluff, King City, Orland, Calistoga, Arbuckle Chamber of Commerce, Vacaville, Martinez, San Mateo, Redwood City, Santa Rosa, Corning, Placerville, Auburn, Rio Vista, Larkspur, Turlock, Watsonville, Burlingame, Ross, Sonora, Walnut Creek, Antioch, Rocklin, Pinole, Town of El Cerrito.
W. R. Van Bokkelen, for Coast Counties Gas and Electric Company.
McCutchen, Olney, Willard and Green, by *Allan P. Matthew*, for Association of Reclamation Districts.
Cooley and Crowley, for Pacific Coast Steel Company and Judson Manufacturing Company.
Chas. Hoehn, for Manufacturers' Association of South San Francisco.
Carl V. Reuter, for Clorox Chemical Company, Oakland.
John Hill and *E. C. Webster*, for Webster and Gruenhagen.
J. H. Piatt, for Bake-Rite, Consolidated.
H. L. Lincoln, for Union Ice Company.
J. B. Howell, for National Ice and Cold Storage Company.

ROWELL, *Commissioner.*

OPINION.

This proceeding brings before the Railroad Commission for the first time for full consideration the entire question of the value, operating expenses and rates of the combined electrical production, transmission and distribution system now operated by Pacific Gas and Electric Company. Previous decisions have dealt with rates in limited portions of

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territory or have been of an emergency nature only. A brief ription of the history and extent of the property and of the rate eedings in connection with it is therefore pertinent.

ory of the Property.

he present system of electric plants and lines had its inception in) when electricity was first generated and distributed in San Fran-) by one of the predecessors of Pacific Gas and Electric Company. 895 the first hydro-electric plant at Folsom commenced the delivery nergy to Sacramento over a twenty-mile transmission line. Since ı there has been rapid and continuous development in the size of its, the distance of transmission and the extent of service.

acific Gas and Electric Company was incorporated in 1905 and for me existed principally as a holding company, owning the stock of orations that had been brought under one ownership and manage- t. The actual ownership of the property was assumed in 1911 and ific Gas and Electric Company has since been the active operating ern. A large number of smaller systems have been acquired, some ı the elimination of competition and some with an extension of ter- ry served. The last and most important of these acquisitions was of the property of Northern California Power Company, Consoli- d, acquired in 1919. On January 1, 1920, Pacific Gas and Electric ıpany assumed the operation, under a fifteen year lease, of the prop- es of Sierra and San Francisco Power Company, and while the last tioned properties are separate in ownership they are operated as art of the unified system. Through its subsidiary, Mount Shasta er Corporation, which is kept alive largely for purposes of financ- Pacific Gas and Electric Company has commenced extensive elopments of new power resources upon the Pit River.

ent of the Property.

he public utility operations of Pacific Gas and Electric Company ude electricity, gas, water, steam heat and street railway service and he year 1921 produced a total gross revenue of $37,507,980.76. Of sum, the electric properties, to which consideration is now confined, duced $23,291,370.49 or 61.9 per cent. Electricity is generated in nty-three owned and five leased hydro-electric plants having a total alled capacity of 229,950 kilowatts, and in four steam plants, three ıed and one leased, with an installed capacity of 129,500 kilowatts, ting a total of 359,450 kilowatts installed generating capacity as of ember 31, 1921. In addition to the power generated in its own leased plants, the company purchases energy from the California- gon Power Company, Great Western Power Company of California, Joaquin Light and Power Corporation, Snow Mountain Water and er Company, and other smaller sources. During the year 1921

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approximately 15 per cent of the total requirements were purchased, but with the development of additional plants on Pit River the purchase of power will be reduced although not eliminated.

During 1921 the combined power resources of the system carried a maximum peak load of 265,925 kilowatts, with an output of 1,489,088,657 kilowatt hours from generating plants and points of delivery of purchased power. This energy is transmitted to 238 substations over 2774 miles of transmission lines, of voltages varying from 110,000 to 17,000. From these substations radiate over 7500 miles of distribution line, reaching on December 31, 1921, over 285,000 consumers, with a connected load of over 1,000,000 horse-power. Electric service is supplied throughout an area approximately 270 miles long by 130 miles wide, including portions of twenty-seven counties, with a population exceeding a million and a half.

In San Francisco, Oakland, Sacramento and other towns and also to a limited extent in rural districts, electric service is supplied by Pacific Gas and Electric Company in competition with Great Western Power Company of California. The rates of the latter company are the subject of applications and complaints now pending before this Commission, generally similar to the present proceedings involving the rates of Pacific Gas and Electric Company.

In addition to supplying electricity directly to its own consumers for lighting, power and the operation of electric railways, the company sells a large amount of energy to other corporations for resale. That the growth of the system and the extension of the distribution lines have not been confined to the cities and towns within the area served, is shown by the fact that at the present time approximately 20 per cent of the company's gross electric revenue is derived from business outside of the corporate limits of cities and towns.

Previous Proceedings.

The first important proceedings before this Commission affecting the rates of Pacific Gas and Electric Company were the result of complaints filed by certain cities shortly after the extension of the Commission's jurisdiction to electric utilities in 1912. These matters were decided largely upon consideration of the individual circumstances involved and attention was given to the operations of the company as a whole only so far as the local matters involved in these cases were affected. It became apparent, however, that consideration would have to be given by the Commission to rates and service throughout the entire territory served and later cases initiated by other cities were therefore consolidated for the purpose of making a general valuation and giving consideration to the operations of the entire system. During the course of these proceedings, war conditions brought about marked increases in costs of operation and in 1918 the company applied for a

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;eneral and immediate increase in all rates on the ground that such .ction was neeessary to enable it to continue to serve the public. In ts Decision No. 5519, dated June 27, 1918 (15 C. R. C. 886) the Com-ıission authorized horizontal increases in rates which were designed to ffset increased costs of operation rather than to constitute a final find-ng of just and reasonable rates.

The rates of Northern California Power Company, Consolidated, ;ere first fixed by the Commission in 1916 as a result of complaints of onsumers and an application on the part of the company for the fixing f reasonable rates. (Decision No. 3624, September 1, 1916, 11 C. R. C. 7.) Increases in costs during and following the war had their effect pon this system as upon every other business in the country and in ıpril 1919, by Decision No. 6285 (16 C. R. C. 684) the Commission uthorized a 10 per cent increase in the rates which it had previously xed.

A number of cities served from the system of Sierra and San Fran-isco Power Company had filed complaints against the rates of that com-any and the utility itself had applied for an order of the Commission xing just and reasonable rates throughout its entire territory. This roceeding, like others already mentioned, was overtaken by war time ıcreases in costs and in October, 1918, by its Decision No. 5867 (16 C. '. C. 160) the Commission, in passing upon an application of the com-any for emergency relief, authorized such increases in rates as would ffset increased costs of operation. At this time the larger proceeding 'as continued for further hearing and the final fixing of proper rates ›r all classes of consumers.

urcharge Cases.

This will indicate the conditions as regards rates existing on the sys-:m operated by Pacific Gas and Electric Company early in 1920 and fter it had purchased the properties of Northern California Power ompany and leased those of Sierra and San Francisco Power Com-any. Further increases in costs of operation and a serious shortage ! hydro-electric power which made necessary the extended operation ! steam plants, prompted the company to file the present application ;king not only for temporary relief from conditions then existing but so that the proceeding be continued so that the Commission might nally fix reasonable rates for the entire consolidated property. ecision No. 7823 (18 C. R. C. 47) covered the first portion of this ap-lication and authorized a temporary increase in rates or a surcharge of 5 per cent for a period of nine months, beginning July 10, 1920. hortly before the expiration of this nine month period the company ed a supplemental application requesting that the 15 per cent sur-ıarge be continued indefinitely pending a final decision fixing reason-›le rates for the entire system. This supplemental application was

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denied, however, and by Decision No. 9017 (19 C. R. C. 925) the Commission reduced the surcharge from 15 per cent to 6 per cent, effective April 10, 1921. The rates fixed by this and other decisions already referred to are now in effect in various parts of the territory served.

Various Complainants.

Not only have these conditions resulted in three separate and distinct groups of rates, one applying to the property originally owned by Pacific Gas and Electric Company, another applying to the system acquired from Northern California Power Company, Consolidated, and a third applying to the property operated under lease from Sierra and San Francisco Power Company, but the rates upon the systems of Pacific Gas and Electric Company and Sierra and San Francisco Power Company are the result of gradual growth and extension of territory and service. These factors, together with the effect of competition where it has been encountered, have not resulted in complete and uniform schedules of rates and, as would be expected, there developed naturally instances of inequality and discrimination between localities and classes of service. The problem before the Commission is, therefore, not only that of determining the level of rates generally reasonable both to the utility and to the consumers, but also the simplification and readjustment of rate schedules to remove inequalities between localities and classes of consumers.

The complaint in Case No. 1786, *City of Sacramento* vs. *Pacific Gas and Electric Company,* alleges that charges made for street lighting service in Sacramento are unreasonable and unjust and asks that the Commission fix just and reasonable rates for this service and award the city reparation based upon the difference between the sums collected and the sums that would have been collected under rates in effect in certain other cities. As far as this complaint concerns the fixing of reasonable rates for this service, it has been consolidated with the other applications and cases now being decided, but the matter of reparations involves questions of jurisdiction which the company and city will doubtless desire to argue further. Decision on this question will therefore be deferred for further hearing.

In Case No. 1669, the complaint of *C. E. Mochrle et al* vs. *Pacific Gas and Electric Company and Great Western Power Company,* it is alleged that the rates charged by these two companies in the so-called Park-Presidio district of San Francisco are higher than the rates charged by them in the downtown district and higher than the rates charged by Universal Electric and Gas Company; that the Universal Electric and Gas Company would extend its lines into the Park-Presidio district were it not for the limitation upon the amount of power supplied to it by Pacific Gas and Electric Company as lessee of the system of Sierra and San Francisco Power Company.

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The complainants ask that the Commission require the defendant ompanies to furnish service in the Park-Presidio district at the same ates that they charge in the downtown district, or that Pacific Gas nd Electric Company, lessee, be required to furnish sufficient power to niversal Electric and Gas Company to enable it to extend its lines.

As far as this complaint concerns the question of reasonable rates, it as been combined with the other proceedings now under consideration. ince these proceedings began, the property of the Universal Electric nd Gas Company has been sold to, and is now operated by, Great Vestern Power Company of California.

resent Proceedings.

Hearings in the present application and consolidated cases, as they ffect the fixing of reasonable and definite rates, have been held throughut the past year and have occupied a total of fifty hearing days. The ecord consists of 113 exhibits filed by various interested parties and of 500 pages of reporter's transcript of oral evidence. Upon the company has naturally fallen the burden of sustaining its claims and of urnishing a very large part of the basic information and statistics. It as introduced 66 written exhibits which contain an enormous amount f data regarding its system and operations and which vary from simple tatements of one or two pages to a set of bound volumes summarizing he inventory and appraisal which it has made of its electric system nd containing over 6900 typewritten pages.

In the interest of efficiency and economy the many cities and towns nterested in the rates joined forces and through one organization have aken an active part in the conducting of the case. Their engineers ave cooperated with those of the Railroad Commission in the check hich has been made of the valuation and in studies of operating xpenses. The cities have also given attention to the particular probem in which they were interested, have called witnesses, and have filed ix exhibits showing the results of studies, in connection with various laims made by the company. The California Farm Bureau Federation as taken an active interest in the entire proceeding. It has called no itnesses and presented no original exhibits, and did not participate in he joint investigations conducted by the Commission, the cities and the ompany, but its attorney has conducted elaborate cross examinations f almost every witness called by any of the parties interested. Seventeen exhibits were introduced, two of them being newspaper articles, our being published crop reports and United States census bulletins, nd the remaining eleven being statements prepared by the company t the request of the Farm Bureau representative.

The Association of Reclamation Districts and Yuba Consolidated oldfields, Incorporated, were each represented by an attorney and an

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engineer and each submitted a very complete and enlightening engineering report on the cost of service and desired rates for reclamation pumping and the operation of gold dredges. While these reports are primarily in support of the claims of the respective parties, both are comprehensive presentations, and although the conclusions reached could not be accepted in toto they have been of considerable assistance in deciding many of the technical questions involved.

Many other consumers participated in portions of the case more directly affecting their interests and nine other exhibits cover studies of the cost of particular classes of service and embody recommendations and suggestions regarding changes or modifications in particular rates. With the aid of engineers representing the cities and other interested parties, the engineers and accountants of the Commission have made careful studies of the company's operations, estimates and claims, the results of which are embodied in fourteen written exhibits submitted as part of the evidence. A large amount of engineering analysis has also been necessary on the evidence submitted and extensive studies have been made in an effort to build up a simpler and more equitable rate structure than that heretofore in existence.

Applicant's Claims.

Applicant cites a large number of court decisions in support of the principles on which its claims are based. It claims generally that it is legally entitled to rates which, in addition to enabling it to pay reasonable operating expenses and to set aside a proper allowance for depreciation, will also provide a fair return on a reasonable value of the property used and useful in the public services. It emphasizes especially that the "reasonable value" in question is something distinct from cost and insists that, under the court decisions cited, this Commission must find a "value" of the property, in this sense, as a basis for fixing rates, and that it can not legally base its conclusions, as it has in many cases in the past, largely on reasonable investment or reasonable historic cost.

Applicant's claims for value are based upon an inventory of the property taken as of December 31, 1919. This inventory of the property has been priced at the average prices in effect during the five year period immediately preceding. To the value of the property as of December 31, 1919, so obtained, have been added subsequent additions and betterments at actual cost. Applicant also presents estimates in which it seeks to show the value of the company's water rights and the value that it claims attaches to it as a going concern.

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These claims are summarized in Table 1:

TABLE No. 1.

Claimed Rate Base, Year 1922—Electric Department, Pacific Gas and Electric Company.

(Summarized from Applicant's Exhibit 62.)

	Owned property	Leased property	Total
Physical property (including lands)	$114,507,108	$18,663,478	$133,170,586
Organization expense	374,736	185,000	559,736
Water rights	14,025,000	1,282,800	15,307,800
Going value and development cost	15,000,000	2,411,485	17,411,485
Working capital	3,641,061	620,603	4,261,664
Total rate base	$147,547,905	$23,163,366	$170,711,271

No claim is made by applicant as to what it considers the fair rate of return to be earned upon the reasonable value of its property. It does not demand at this time the full return to which it claims itself legally entitled, but asks only rates sufficient to meet its financial requirements. The present basic rates, plus a surcharge, as formerly in force, will, it states, be sufficient for this purpose.

With this preliminary statement of applicant's claims of value and position in regard to rates, the evidence introduced in support of these claims may be taken up in detail.

Structural Property Other than Leased System.

Applicant's claim of value of its structural property is based upon the application of the average prices for the five year period 1915 to 1919, inclusive, to an inventory of the property taken as of December 31, 1919. To this value, determined as of December 31, 1919, subsequent additions and betterments have been added at actual cost. At the request of the Commission, applicant also presented an estimate of the cost of reproduction new of the property as of December 31, 1919, based upon historical prices. These estimates of reproduction cost were very carefully checked by representatives of the cities and of the Railroad Commission, both during and after preparation. Not only did this check involve a comparison of a very large part of the inventory with actual records of the company and with the actual plant in the field but much of the work of calculating unit prices, etc., was done jointly by engineers representing the company, the cities and the Railroad Commission. As a result of this work, many errors were discovered and corrected and a number of the company's claims were materially modified before the completion and submission of the appraisals. The engineers representing the cities and the Railroad Commission presented a joint report substantiating the inventory and, except for reservation as to certain principles followed, accepting the result of the appraisals as finally submitted. The four important principles to which the report takes exception are:

1. The inclusion without correction in both the five year average and the historical appraisals of certain canals and structures that would not

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have been reproduced at the time that they were first devoted to public use or during the assumed five year construction period but which are in use because they were already in existence when actual construction was begun or because they were built under unusual conditions at favorable prices not reflected in the appraisal.

2. The inclusion in the historical appraisal of certain old canals at estimated costs of construction for mining purposes between 1850 and 1860 instead of at estimated costs of construction when devoted to the production of hydro-electric power about 1900.

3. The method of allocation between departments of the value of certain canals which carry water used for both the production of electric power and for irrigation purposes.

4. The inclusion in the five year average appraisal of the cost of paving over mains and around poles which was in existence at the time of the inventory but which was not actually laid at the expense of the company.

A third valuation of the structural properties exclusive of the leased system was placed in evidence by Mr. L. S. Ready, assistant chief engineer of the Commission, in which he has revised both the historical and five year average reproduction costs on account of the reservations just referred to. A comparison of these four sets of figures is shown in Table 2 in summary form:

TABLE No. 2.

Operative Structural Property—Electric Department, Pacific Gas and Electric Company, as of December 31, 1919.

	Estimated Reproduction Cost New.			
	Average prices, 1915-1919		Historical prices	
	Presented	Revised	Presented	Revised
Production, hydro	$35,917,083	$33,595,432	$26,877,985	$24,987,287
Production, steam	7,584,416	7,584,416	5,497,440	5,497,440
Transmission	10,777,957	10,777,957	8,322,741	8,322,741
Distribution	37,991,824	37,723,425	30,629,188	30,629,188
Electric department, general	1,094,645	1,094,645	792,383	792,383
Pro rata of all departments	1,413,931	1,413,931	1,052,423	1,052,423
Totals	$94,779,856	$92,189,806	$73,172,160	$71,281,462
Lands (see Table No. 3)	3,185,092	2,644,657	3,185,092	2,644,657
Totals	$97,964,948	$94,834,463	$76,357,252	$73,926,119

Three other interesting figures have been derived from the complete appraisal by a consideration of relative prices during various years. One of these figures is the approximate reproduction cost new of the property of December 31, 1919, at prices of December 31, 1921, which was estimated by Mr. Piatt of Pacific Gas and Electric Company at $111,612,280 for non-landed property. Mr. N. R. Ellis, engineer for the cities, estimated the reproduction cost new of the property of December 31, 1919, at the average price of the ten year period 1910–1919, inclusive, to be $83,761,297 and at the average prices of the ten year period 1912-1921 to be $94,358,806. All three of these figures are comparable in

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amount, although not in accuracy, with the estimate of cost of reproduction new at five year average prices of $94,779,856 and with the reproduction cost new at historical prices of $73,172,160, set forth in the table above. Passing for the time being the question of the reservations above referred to and confining our attention to the fundamental basis upon which the property is to be valued, we have the following comparison of price levels and resulting figures, all referring to the structural property of December 31, 1919.

Historical prices	$73,172,160
Average prices, 10 years—1910–1919	83,761,297
Average prices, 10 years—1912–1921	94,358,806
Average prices, 5 years—1915–1919	94,779,856
Prices of December 31, 1921	111,612,280

To all of these figures must be added an allowance for additions and betterments since December 31, 1919, as to the cost of which there is little question, and from all of them must be substracted any deductions that should be made on account of the depreciated condition of the property.

Basis of Valuation.

The company takes the position that the appraisal upon the average prices of the five year period 1915 to 1919, with subsequent additions and betterments at cost, is a conservative estimate of the reasonable present value upon which it is entitled to ask for a fair return and its attorney supported this position by extensive argument and reference to court decisions. Mr. Dailey, on behalf of the cities, holds that the present value upon which a fair return should be allowed is not fairly represented by the appraisal upon five year average prices and urges that the appraisal upon historical prices is much nearer to the reasonable present value of the property for rate fixing purposes. He supports his position by many citations of court and Commission decisions, and brings out the fact that the appraisal on five year average prices gives no consideration to the element of usefulness which he contends is an essential part of value. Judge F. S. Brittain, representing the California Farm Bureau Federation, is even more positive in the expression of his opinion that "in no event should a valuation be placed on the property upon the company's theory of the cost of reproduction new."

These arguments again bring before this Commission the question of the basis of valuation to be followed in the determination of a rate base. The provisions of the law with reference to this subject are not explicit, and discussion has therefore largely turned upon the decisions of the courts through which the law is interpreted. Such questions have usually come before the federal courts under the constitutional amendment forbidding the taking of private property without due process

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of law. The difficulty in making direct application of the decisions of courts to the problems of the Commission is that the higher courts usually only affirm or reverse the findings of lower tribunals, and the decisions therefore deal more with the problem of what is or is not confiscation than with the soundness as a whole of the various principles of rate regulation which have been under review. A basis upon which to judge the question of confiscation has gradually been developed until the courts now generally recognize that a utility is entitled to receive a fair return upon the reasonable value of its property at the time of the inquiry. This rule, it must be remembered, has been developed and is used as a test of confiscation and is not the result of an inquiry seeking the basis of rates that will establish the soundest and most advantageous economic relation between consumers, utility and investors.

With its extensive hydro-electric and limited fuel resources and the widespread use of electrical power in all of its basic industries, the prosperity of California, depends, as does that of perhaps but few other states, upon the extensive development and reasonable price of hydro-electric energy. Rates that are so low as to stifle future development would be as dangerous as rates that are so high as to prevent the full utilization of natural resources. The welfare of the state demands that rates for electricity must be as high as but no higher than is necessary to enable development to keep pace with demand. If this requirement be met, a return that is sufficiently liberal to encourage the investment of new money can hardly be held confiscatory toward the present investment. The problem is one of economics and must be solved chiefly by the application of economic laws, within the limits set by constitutional and statutory law. The law so far as enacted in constitutions and statutes must of course be followed, and the decisions of judicial tribunals are of immense help in the light they throw on economic laws, as well as in their authoritative determinations of the statutory law, but care must be taken that attention to abstract analysis does not too much obscure consideration of the concrete problem.

The interest or return which must be paid for the use of the large sums of money required for the development of hydro-electric power is one of the most important elements in the cost of operation regardless of whether that development is carried on under private or public ownership. The greatest economy will, therefore, follow the choice of that basis of return which makes possible the securing of money at the lowest rate of interest. That safety of investment and low rates of interest go hand in hand is seen from a mere glance at the securities now before the public, ranging as they do, from the obligations of the United States government with great security and relatively low rate of interest, on the one hand, to speculative stocks with their comparative insecurity and unsupported promises of large returns, on the

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other. If by increasing the security we reduce the rate of return, no hardship will be worked upon the investor. What he loses in return is made up by gain in security. A stable basis of valuation for rate making purposes, which will tend to greater security of investment, is therefore in the interest of present and future consumers, as well as of investors.

If a fluctuating reproduction cost is allowed to control the rate base, a large return will be earned during periods of high prices and a comparatively low return during periods of low prices. On the other hand, assurance and uniformity of return will follow the choice of a rate base controlled largely by the amount of money which has been honestly and wisely spent in the construction of the property. Security of investment and of return will benefit the investor, while the resulting lower cost of money will benefit the consumer.

It must also be remembered that in many ways a public utility under the regulation and control of the people is not on a par with a private enterprise in a competitive field. A public utility under regulation is, to a large extent, protected against competition and therefore against the source of many of the losses sustained by the usual competitive business. But such a utility is obliged to serve the public and must make expensive additions to its plant under price conditions and at times when business judgment might otherwise dictate that expansion be avoided. The increase or decrease of present value as compared with cost, is therefore largely fortuitous and not the result of the exercise of judgment or foresight. Public regulation having to this extent limited the free exercise of business discretion, ought not in justice to consumers and to the utility, award to the utility the benefiits nor subject it to the penalties of these circumstances.

The very fact that the company in this case does not ask for the rates to which on its theories it would be legally entitled shows that the theories will not stand the test of practical application. Without denying to the officers of the company their share of public spirit, it must be presumed that they also realize that such high rates would be injurious to the company itself. Their problem in managing the company involves, in its practical aspect, chiefly the same problem that confronts the Commission in regulating it—to keep the company solvent and growing, to maintain the property and render service, to make new investment possible at a reasonable cost of money, for the rendering of additional service, and to do all this at rates which will be reasonable to the consumers and will encourage consumption. Judgment as to what rates will best do this will naturally differ, according to the point of view, but the priciple is plain, and its fair application is in the practical interest of both company and consumers. The service which the great utility corporations, of which this company is typical, are supplying is

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essential to the prosperity of the people. As long as these companies under state regulation provide adequate service upon a reasonable basis of valuation and rates, they may hope to prosper, but if development were to be stifled by rates so low as to prevent investment, or if the rates and the valuation on which they are based were to become unreasonably high, the whole present system of supplying this essential commodity by private investment under public regulation would have become a demonstrated failure, and the public would take over the responsibility. The laws would protect the actual property against confiscation, but the business, which is essential to the value and usefulness of that property, could not be protected against destruction. It is therefore as essential to the investor that rates be not unreasonably high as it is to the consumer that they be not unreasonably low.

Besides these fundamental considerations, we can not escape the conclusion that there are certain inherent weaknesses in the company's position in this case. The evidence shows that engineers representing the cities and the Railroad Commission, agreed that upon the whole the condition of the property is but 83 per cent as good as new. This depreciation must certainly have some effect upon value, but the company has entirely omitted it from consideration, in this particular contention. It presents a mixture of so-called values of property constructed before December 31, 1919, and of cost of property since. The explanation given of the inconsistency is that the estimate is sought to be "conservative," but it seems also to imply a recognition of the weakness of the present value theory, if it were carried out to its extreme logical conclusion.

The general trend of prices is downward and but few words would be needed to picture the position of a company inviting the investment of new money for the construction of property at present costs upon which a return will be earned only upon the basis of a lower future value. Further, as Mr. Daley has pointed out, the company's claim for value on the basis of present reproduction cost inventory gives no consideration to the element of usefulness or worth. We have but to consider the Folsom hydro-electric plant to realize the inconsistencies of this claim. In spite of the fact that this plant was built by convict labor, the inventoried quantities of masonry and excavation have been priced at the average prices of the five year period, resulting in an appraisal of $2,548,000. In proportion to size, this is more than twice the cost of any plant built in this state in recent years, and if a return at 8 per cent on this sum were to be included, the cost of energy from this plant would be more than 50 per cent in excess of the cost of steam power. In this instance the attorney for the company admitted that the plant is not now worth the estimated reproduction cost, but the illustration might be multiplied almost indefinitely.

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Miles of parallel canals that were taken over from extinct mining enterprises have been included at five year average prices when as a matter of fact the same results in the production of electric power could be more cheaply and efficiently obtained by the construction of shorter canals. Wooden pole transmission lines have been appraised at the prices of 1915 to 1919, when the same purpose could be filled by less expensive additions to the capacity of substantially parallel and more recently built steel tower lines.

In the power plants many small generating units have been appraised at reproduction prices, although the same energy would be more efficiently and economically generated by fewer large units which would cost considerably less. Considering the history of the company and its past development, the use of such property is not subject to criticism, but it indicates very plainly that the value of antiquated equipment is not the same as its present reproduction cost. The claim that the decisions of the courts require that it be so valued, is a distortion of the meaning and justice, if not of the language, of those decisions.

Estimated reasonable historical cost is not the only factor that should be considered in arriving at a proper basis of rates, but we believe it must be the controlling factor, provided the resulting rates are within the constitutional limitations. For ten years this Commission has followed such a policy and under that policy utilty companies have prospered and are now on a sounder financial basis than they were ten years ago. At the same time many of the rates they charge are lower today than ten years ago, and considering the state as a whole, but few commodities are as close to pre-war prices as electricity. Careful consideration and reconsideration of the question by succeeding members of the Commission has uniformly resulted in the conclusion that this policy is sound, and, what is perhaps more convincing, it has satisfactorily stood the test of time and the extreme conditions of the past few years.

We do not believe that the arguments advanced in this case justify the reversal of such a policy. The test of confiscation applied by the courts must be met by any return which is found reasonable, but under the conditions with which we are confronted, it can not be used as the basis for determining what is a reasonable return. We must answer the question as to what is a resaonable return for this utility to earn, while the courts, if appealed to, must decide whether that return does or does not result in the taking of private property for public use without just compensation.

Reservations.

Having settled upon the fundamental basis to be used in the determination of a rate base, we may take up the reservations with which the appraisal as presented was approved by the engineers of the cities and

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the Commission. The first of these reservations, which have alread been described, refers to the Folsom power plant and to certain canal now used in the development of power—some of which were constructe for irrigation and some for mining purposes. The Folsom plant wa constructed under a contract in accordance with which the state fur nished convict labor in return for certain lands, a short railroad track and certain other rights. The company's estimate of historical cos is based upon a value of the labor received under this contract instea of upon the cost of property and rights surrendered. Such an estimat is clearly not the cost to the original owner of the plant.

The actual money cost of this plant is difficult to determine fron the records of its construction which are now available, but it appear to have been not far from one million dollars. Mr. Ready has found that upon the basis of the cost of the most expensive plant recently con structed in the state, the Folsom plant would not be worth over on million dollars as a maximum. It is apparent that if any sum in exces of one million dollars was spent in the construction of this plant, i can hardly be said to have been a wise or judicious expenditure. Thi appears to be the greatest allowance for the cost of this plant that ca fairly be made, and results in a deduction from the company's clain of historical cost of $713,693.

The evidence shows that what are known as the Dewey, Miners Inskip and Hendricks canals were already in existence at the time o construction of the DeSabla and Centerville power plants. It is als shown that a shorter canal and tunnel would more efficiently diver the same water from the same stream and deliver it to the same fore bay, and that at the time of construction of these plants the cost o such a canal, including the right of way at its present value, would have been $80,722 less than the estimated original cost of the canals i actual use. Any part of this $80,722 that was spent in the acquisitio of the original canals could not have been wisely spent, and the corre sponding deduction should therefore be made from the estimate o original cost. Of this deduction, $76,386 applies to structural prop erty and $4,336 to lands.

The same reasoning may be applied to other canals and reservoir covered by the second reservation, and which, are estimated to have cost at the time of their original construction for other purpose $595,145 more than it would have cost to reproduce them at the time they were made a part of the electric production system. Two othe canals inherited from the early mining days parallel and practically duplicate certain of the main canals. While these smaller canals are occasionally used to carry water for use in power plants, they do not appear to be a necessary part of the system and should therefore be

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xcluded from the valuation. This results in a further deduction of 44,103 from structural property and $1,125 from lands.

Other canals are used to carry water which is used both for the production of power and for irrigation purposes, and some arbitrary llocation of their cost must be made between the irrigation use and ıe electric power use. In presenting its valuation the company made ıch an allocation but it has not been considered entirely satisfactory y the Commission's engineering department. After consideration of ıe evidence, we believe that the allocation suggested by the Commis- ion's engineers is more nearly fair than that suggested by the company, nd it will therefore be accepted. This results in a total deduction of 588,682. Removing the duplication caused by the previous consider- tion of one of these canals under one of the other reservations, leaves net deduction of $480,685, of which $461,371 applies to structural roperty and $19,314 to land.

The fourth reservation described referred to only the five-year aver- ge valuation, and while the soundness of the contentions of the joint eport of the engineers has been admitted by the company's representa- ives, it need not now be considered in detail.

After giving effect to these deductions, we have the figures sub- ıitted by Mr. Ready and set forth in the last column of Table No. 2 receding, as a fair estimate of the reasonable cost as and when con- tructed, of the property of Pacific Gas and Electric Company as of)ecember 31, 1919, a total for structural property of $71,281,462.

ands.

The basis upon which the value of land is to be determined in roceedings such as this is generally agreed upon and as a result the alues presented by the company and by the engineering department of he Commission, as shown in Table No. 3 do not differ widely.

TABLE No. 3.

'alue of Operative Lands—Electric Department, Pacific Gas and Electric Company. (Property as of December 31, 1919; Value as of June 30, 1921.)

	Company (Exh. 31a)	Commission (Exh. 3a)	Difference
roduction, hydro-electric	$745,841	$584,032	$161,809
roduction, steam-electric	339,149	338,453	696
ransmission	1,157,068	808,321	348,747
istribution	276,174	272,424	3,750
oint electric	180,096	179,474	622
ro rata of all department lands	486,764	486,728	36
Totals	$3,185,092	$2,669,432	$515,660

The difference of $515,660 is practically accounted for in two items, ne being the value of certain timber lands, claimed to be $126,053, 'hich the Commission's engineers have not included, and the other eing a difference of $390,332 between the company's estimate of the ost to secure certain pole line easements under present conditions, and

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the Commission's engineers' figures of the actual cost of the same easements as secured.

The timber lands in question are not now used by the company but it claims that by its ability to cut its own lumber for the maintenance of certain flumes, it is able to control the price which it must pay for such lumber, while if it did not have this source of supply, the inaccessible location of these flumes might enable local mills to exact excessive prices. The question is by no means one-sided, but such reasoning as this would support a utility in the holding of not only timber lands, but of idle steel mills, machine shops and oil wells or lands. Applicant may consider itself justified in holding these timber lands as non-operative property but as no actual use has been made of them in electric operations for several years it can hardly be concluded that they are operative property.

The estimate of the present cost of securing right of way easements was presented by the company as a basis for determining the present value of the rights of way in question. However, the company's witness admitted that it is very difficult to make an accurate estimate of the present cost of securing the easements now owned by the company. The principles used in the valuation of land are difficult of application in valuing easements of the kind here under consideration where there is but little interference with the use of the land itself. The reason for the use of the present value of lands in determining a rate base is to a certain extent at least the fact that land has a definite market value which may be established with fair accuracy by evidence and that if a utility abandoned the use of any parcel of land it could, without great difficulty, secure a reasonable price from some purchaser. This logic, it will be noticed, does not apply in the case of easements for electric pole or tower lines. Should a utility desire to abandon any such line, it could find a purchaser for the right of way easements only in some other concern that desired to operate such a line in the same location. As there is evidently no general use for such easements they can hardly be said to have a market value in the sense that land has such a value. The statement of the actual cost of these easements, as presented by the Commission's engineers, furnishes the best evidence of value that was presented and will be accepted as the base for the purpose of calculating the reasonable return to be earned by the utility on this part of its property.

Organization Expense.

The company's claim for organization expense is based upon a study of all available records now in its possession and upon an estimate of items not shown in these records. The total organization expense of the thirty-three companies whose property is now owned by Pacific Gas and Electric Company is given at $686,634 of which $398,533 is

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he actual cost of organization of Pacific Gas and Electric Company as hown by its books, and the remaining $288,101 is the cost, partly actual nd partly estimated, of organization of other companies whose prop-rty is now owned by Pacific Gas and Electric Company. Of this total 374,736 has been allocated to the electric department.

The allowance for organization expense which the Commission as made in past cases has averaged from approximately one-half of ne per cent of the total cost of operative property for larger com-anies, to approximately one per cent for smaller companies. The otal figure claimed in this case is close to one-third of one per cent, nd appears entirely reasonable.

Vater Rights.

The value of $14,025,000, claimed by Pacific Gas and Electric Com-any for its water rights, is based on an extensive study and report pre-ared by Mr. F. Emerson Hoar, consulting engineer. Mr. Hoar's valu-tion is based on the assumption that the price at which electric power ıay be sold depends not upon its cost but upon the cost of power from competitive source, and that the difference between the actual cost f hydro-electric power and the cost of substitutional power is the net arning on the value of water rights. The capitalization of this net arning would, on this theory, give a capital value of the water rights ıvolved.

As one step in his valuation Mr. Hoar makes a study of the available ıpplies of fuel on the Pacific Coast and determines the future economic rice of fuel oil to be $1.75 per barrel. A comparison of the cost of ydro-electric power delivered from the plants and transmission lines f Pacific Gas and Electric Company with the calculated cost of steam ower produced in large and efficient substitutional steam plants burn-ıg oil at $1.75 per barrel gives a value of water rights of $26,140,000 hich Mr. Hoar identifies as their "economic value."

A second comparison of the cost of production on Pacific Gas and lectric Company's system and in hydro-electric plants constructed uring the war period gives a value of water rights of $17,570,000 which [r. Hoar identifies as "present market value."

A third comparison, and the one upon which the company's claim is ased, is between the cost of power from the existing plants and trans-ission lines of Pacific Gas and Electric Company and the estimated ost of power from proposed plants of Southern California Edison ompany on Big Creek, which gives what Mr. Hoar refers to as a "nor-ıal or commercial value" of $14,025,000. To quote from Mr. Hoar's eport, "this conclusion is based upon the cost of reproducing an quivalent deliverable output from officially recognized hydro-electric ources and indicates the limiting effect of potential competition in

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creating a temporary market value for the service which is considerably lower than its economic value."

Mr. Chas. H. Lee, formerly executive member of the California State Water Commission, was retained by the cities to prepare figures upon the value of the water rights under consideration, with results that are in striking contrast to those of Mr. Hoar. Mr. Lee's report shows the effect upon the economic value of water rights as determined by Mr. Hoar of changes in the price of fuel oil upon which the figures are based. This calculation indicates that the value of water rights would vanish entirely should the permanent price of oil fall as low as 92 cents per barrel. In this connection it is interesting to note that since the presentation of Mr. Hoar's report the price which the company pays for oil has fallen to 93 cents per barrel.

This would point to a present, even if temporary, water right value of practically nothing, and in almost the identical language in which Mr. Hoar described his finding of commercial value we may well say that this conclusion is based upon the cost of reproducing an equivalent deliverable output and indicates the limiting effect of potential competition in creating a temporary market value for the service which is considerably lower than its economic value. The same reasoning which limits the value established by competition with power produced from oil at $1.75 per barrel or to a lower figure established by competition with power from distant hydro-electric sources will also limit that value to the still lower figure established by competition with oil fuel at 93 cents per barrel.

Mr. Lee made an analysis of the estimates of cost of future production from the proposed Big Creek plants and has compared the figures used by Mr. Hoar with other figures published by Southern California Edison Company, by which he shows a value of Pacific Gas and Electric Company's water rights far below that calculated by Mr. Hoar and in some cases equal to, or less than nothing.

This phase of Mr. Lee's report precipitated an answering report from Mr. Hoar which was in turn answered by Mr. Lee and during the hearings the ensuing battle of reports threatened to reduce the engineers' calculations from testimony to comedy. Considering the question in all seriousness, however, it is plainly apparent that the variety of figures given to the public in connection with the proposed development and the natural scarcity of definite information as to many of the important details, have enabled two reputable engineers so to choose and manipulate their figures as to arrive at radically different conclusions.

Aside from the question raised by Mr. Lee as to the reliability of Mr. Hoar's figures, we can not accept the theory upon which he has used them. The inclusion in the return allowed Pacific Gas and Electric Company of an earning on a value of its water rights fixed on the

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ggested basis would make the cost of power delivered at transmission bstations the same as the cost to Southern California Edison Comny of power delivered at its transmission substations. The applicaın of the same principle to other companies would have the same ault, and instead of valuing property and examining operating penses for each company, we should in the future fix rates by the nple application of an estimate of future costs on some proposed stem. Hydro-electric projects more favorably situated by reason of ysical characteristics, accessibility, or even rates of wages of operatg forces, would profit accordingly, and those less favorably situated in e same respects would be at a disadvantage or would fail entirely.

The choice of the project to be used as a yardstick in this scheme ould seem to be a matter of importance but the qualifications prosed by Mr. Hoar are that it be large and unable to capitalize its waterght values. He points out that the proposed Big Creek development eets both these conditions.

Mr. Lee also made a study of the prices which have recently been id by Mount Shasta Power Corporation for water rights on the Pit ver which have recently been acquired in connection with the developents which are now being carried forward for the use of Pacific Gas d Electric Company. While these figures involve a number of estiates, they indicate that on the basis of prices which have recently been id for these rights upon the Pit River, the rights necessary to proce the amount of power that is now being produced from the rights, e value of which is in question, would cost something less than 50,000. In spite of its evident limitations, this figure is developed a far sounder theory than that used by Mr. Hoar. We are endeavorg to fix a value to be used as a basis of earnings and the attempt to e the earnings and expenses of this company or any other as a basis r that value is unsound. On the other hand, Mr. Lee uses the cost of quiring similar rights, which is in the nature of a trading or market lue.

From a careful consideration of all of the evidence presented in this se we come to the conclusion that the reasonable figure to be applied this proceeding to the operative water rights owned by Pacific Gas d Electric Company on December 31, 1919, is $1,500,000.

ing Value.

The claim of $15,000,000 of going value urged by appplicant is based rectly upon the testimony of its vice president and general manager, r. John A. Britton. Mr. Britton testified to fifty years' experience the utility business in the territory now served by Pacific Gas and ectric Company and described at length the growth of that company, th whose property he has been connected almost since the beginning service by it first predecessor, many years before the incorporation

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of the present company. After giving careful consideration to all of the factors involved, Mr. Britton expressed it as his opinion that the going concern value of Pacific Gas and Electric Company was not less than $15,000,000. The company undertakes to support this figure by an analysis of past earnings of the company showing that in its electric department the accumulated deficit below a uniform return of 8 per cent upon historical cost of the properties amounted to $15,559,312 on December 31, 1919. We do not believe a utility should be allowed to capitalize its early losses on the basis of an 8 per cent return compounded over the whole period of its history. A similar computation shows that about $7,000,000 would have been accumulated in excess of a 6 per cent return, which is the highest rate that could be given any consideration in this case. We therefore can not accept this claim of accumulated deficits in support of going value. Legitimate development expense when satisfactorily proven to have been incurred may properly be included in the rate case, but in view of the above calculations it can not be said that any such legitimate expense was proved to have been made.

It can not be denied that some element of value attaches to a business because of the existence of a trained and efficient organization and of the customers necessary to make it a going concern, but we can not agree with the company's attorney in his description of the nature of this value. In carrying out his idea of reproduction cost as representing value, he described a system such as that of Pacific Gas and Electric Company, complete as to physical property, but with neither operating organization nor consumers, and claimed it to be worth the cost of reproduction of the physical property. He then dwelt upon the undebatable fact that the value of such a property would be increased by a smoothly running operating organization and several hundred thousand consumers attached to its lines and contributing to its financial support. The fallacy in this line of reasoning is in the assumption that such a system without consumers or operating organization is worth the cost of reproducing the physical property. As mere material, it is worth only its salvage value, and as a part of a public utility it is worth its ultimate value as an operating concern, less the cost of building up the organization and securing the consumers. As we are concerned with the difference between the value of the bare property and the ultimate value of the system and business, this leads us into one of the circles of reasoning that are so difficult to avoid when we attempt to apply the usual ideas of value, which are largely based upon earning capacity, to a situation where earnings are to be based upon value.

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A little further analysis we believe shows that the going value of a roperty is due to its ability to earn a return and is not the kind of alue upon which a return should be allowed. In this it is somewhat milar to the premium which is very frequently paid when bonds e called before their maturity. The fact that his money is invested a satisfactory rate of interest for several years to come is of value an investor. If his principal is to be paid back and the interest opped he demands some compensation for relinquishing this advange he enjoys of having his money satisfactorily invested, but as long he enjoys that advantage he does not expect interest upon the value the advantage as well as upon the money invested. In the same way ie ownership of a property, whether utility or non-utility, that is earnig a reasonable return, has a value to the owner, but we do not elieve that he is necessarily entitled to an earning upon this value as ell as upon the value of the property.

No other treatment of this kind of value appears to lead to any efinite result. If the right or the ability of a given property to earn certain return is of value the right or ability to earn a larger return certainly of greater value. The inclusion of this going value in the ate base increases the amount of return, which must increase the oing value, which will still further increase the return, again increasig the going value, and we thus find ourselves in an ascending spiral pproaching infinity as a limit. No allowance for going value will be iade in this proceeding in the rate base upon which a reasonable eturn is to be calculated.

ierra Property.

In connection with the property of Sierra and San Francisco Power ompany, operated under lease (hereafter referred to as the Sierra roperty) the question arises whether Pacific Gas and Electric Comany is entitled to a fair return upon the value of the property or whether the rental payments under the lease should be considered as n item of operating expense. This question has arisen before, notably n connection with the rental paid by The Southern Sierras Power ompany for properties leased from Nevada-California Power Comany. In that case the value of the property was used as a basis for etermining the fair amount of the rental. (Decision 8119, 18 C. R. . 818). Were the actual rental payments to be considered in the resent case, they would necessarily be checked against a return on he property leased. It will therefore be in the interest of fairness nd simplicity to accept applicant's suggestion and consider only the eturn on the value of the property of the Sierra Company.

The claims for the value of the Sierra property are based on evilence introduced by the Sierra Company in Application No. 3602,

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which, since the execution of the lease, has been consolidated with the present proceeding. These claims may well be considered in detail under the same headings as the claims made by applicant as to its own property.

Sierra Structural Property.

An inventory and appraisal prepared by Mr. C. J. Rhodin, consulting engineer for the Sierra Company, included an estimate of historical reproduction cost which has been used by Pacific Gas and Electric Company in showing the historical cost of these properties in connection with the historical appraisal of its own properties. To reach a figure for the Sierra properties comparable with the estimated reproduction cost of its own properties on the five year average prices, the company has taken Mr. Rhodin's historical valuation as a basis and by correcting for differences between historical prices and five year average prices has derived a new figure to represent the cost of reproduction of the Sierra properties at the five year average prices. These two sets of figures are summarized in Table No. 4.

TABLE No. 4.

Operative Structural Property, Electric Department, Sierra and San Francisco Power Company, December 31, 1919.

	Estimated reproduction cost. Historical prices	Five year Average prices
Production—hydro	$5,740,078 00	$7,109,434 00
Production—steam	1,372,814 00	1,958,905 00
Transmission	1,994,430 00	2,799,861 00
Distribution	2,684,173 00	3,417,905 00
Electric department, general	194,900 00	257,569 00
Totals	$11,986,395 00	$15,543,674 00

An analysis of the figures for historical cost of structural property submitted by Pacific Gas and Electric Company in this case, shows that they correspond within very close limits with an inventory and appraisal prepared by the Commission's engineers in connection with Application No. 3602 and they will therefore be used as presented.

Sierra Lands.

A similar analysis of the present value of Sierra Company lands, as submitted by Pacific Gas and Electric Company, indicates that estimated increases in the value of right-of-way easements have been included in this claim, as they were in the claim relating to property of Pacific Gas and Electric Company itself. Consideration has already been given to this question and in following the principle established certain modifications will be made in the figures submitted, as shown in Table No. 5.

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TABLE No. 5.

Value of Operative Lands.

Electric Department, Sierra and San Francisco Power Company.

(Property of December 31, 1919; value of June 30, 1921.)

	As claimed, Exh. 31a	As found reasonable
roduction—hydro	$67,108 00	$67,108 00
roduction—steam	138,962 00	138,962 00
ransmission	301,279 00	169,639 00
istribution	54,579 00	35,202 00
lectric department, general	4,493 00	4,493 00
Totals	$566,421 00	$405,404 00

rganization Expense.

The claim of organization expense is based upon Mr. C. J. Rhodin's stimate of the reproduction cost new of the organization of the Sierra ompany. The evidence in Application No. 3602 also includes a statement of the historical cost of organization presented by Mr. Rhodin. comparison of these two figures is shown in Table No. 6.

TABLE No. 6.

Organization Expense.

Electric Department, Sierra and San Francisco Power Company.

(Property as of December 31, 1917.)

	Estimated cost to reproduce Dec. 31, 1919	Historical cost
egal expense incidental to incorporation	----------	$68,759 29
romotion expense	----------	30,000 00
Total organization expense	$100,000 00	$98,759 29
ranchises	----------	386 00
ost of acquisition	----------	3,800 00
Total franchises	10,000 00	$4,186 00
ther intangible capital	75,000 00	----------
ngineering reports, market studies, preparation work, etc	----------	63,500 00
Totals	$185,000 00	$166,445 29

While the second column of this table purports to show historical ost, there is some question as to the propriety of the amounts shown or promotion expense and for engineering reports, market studies nd preparation work. These items total $93,500, which is more than ne-half of the total claimed cost of organization. As before pointed ut, the amounts found by the Commission to have been judiciously xpended for organization expenses have ranged from one-half of one er cent to one per cent of the rate base. In this case it appears that onsidering the size of the company and other factors affecting the ost of its organization, an allowance of $100,000, or approximately vo-thirds of one per cent will be reasonable. This sum does not nclude the cost of franchises, which will be considered separately.

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Sierra Water Rights.

The value of $1,282,800 for the water rights of the Sierra properties was also presented by Mr. Rhodin on behalf of that company. The principal item of this figure is an estimate of $1,250,000 for the cost of the company's principal water rights, which are located on the Stanislaus River in connection with the Stanislaus power house. To this amount has been added $32,800 for water rights on the South Fork of the Stanislaus River, which are tributary to the Phoenix power plant and which have been valued by applying to the figure for the water rights of the Stanislaus plant the ratio of installed capacities of the two power houses. The figure of $1,250,000 is, therefore, fundamental to the estimates of the cost of all of the rights and consideration may be limited to it. This figure is an estimate of the cost of the water rights in question, based upon an appraisal of securities issued to the original locator of the rights at the time a company was first formed for the purpose of development and of securities issued some years later when the original company was reorganized and the present Sierra and San Francisco Power Company formed. It is assumed that securities which did not represent an equity in constructed or acquired physical property were issued for intangible property and that water rights constituted the only intangible value. The details of the calculations involved have been carefully analyzed and while it is not necessary to discuss them at length, certain outstanding facts are of importance.

The securities upon which the appraisal is based were not generally traded in by the public at the time they were issued and Mr. Rhodin has therefore been compelled to resort to prices established in a few transfers which were to a large extent between the parties interested in the organization or reorganization proceedings. In the instance of the securities first issued, the development was entirely in the future while in the second instance the development was in the hands of a bankrupt corporation and all hope of profitable operation was in the future in this instance as well as in the other. In neither case did the rights in question have any proved value upon which the security issues could have been based, nor is there any proof that water rights were the only basis upon which the securities appraised were issued. The price that a more or less optimistic speculator is willing to pay for the hope of a future profit certainly bears no relation to the cost of the water rights which could have been but one of many elements contributing to the possibility of that profit and such speculative payments, even if satisfactorily established, would have even less connection with present value.

The evidence presented by Mr. Rhodin indicates that approximately $225,000 of actual money was spent in connection with the original

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ocation of these rights and the sum of $250,000 appears to be a liberal llowance for water rights in this proceeding.

ierra Development Cost.

In support of his claim for development cost, Mr. Rhodin presented n analysis showing the cost of bond money of the Sierra Company to ave been approximately 6.4 per cent and that the accumulated deficit elow a return of 6.4 per cent on the historical cost of property from ear to year would total $2,335,347 up to December 31, 1917. To this e adds $76,138 on account of expenses in connection with the negotiaion of a contract for the sale of power by the Sierra Company to nited Railroads of San Francisco, and arrives at a total of $2,411,485, hich is the amount that was claimed by the Sierra Company in its pplication and which Pacific Gas and Electric Company now claims. Ir. Rhodin's testimony in connection with the water rights of the ierra Company and other records before the Commission give some acts in connection with the history of this development which throw ome light on this claim for development cost.

Sierra and San Francisco Power Company was incorporated to take ver the assets of two defunct companies which had commenced the evelopment of a water power project on the Stanislaus River. All of s common stock was placed in the hands of United Railroads Investment Company, which also controlled United Railroads of San Franisco, and the project was completed and for several years operated rimarily to supply hydro-electric power for the operation of the street ailway system of San Francisco. Of late years a general electric usiness has been added to the lines but even for the year 1921 almost 0 per cent of the revenue of the Sierra system was from the railway usiness.

While the record does not support any supposition that part of the eficit which Mr. Rhodin has calculated was due to an improper rate or the power sold to a closely allied consumer, the fact that the company's existence during its early years was largely for the benefit of his one large and closely allied consumer is important in connection ith the consideration of a development cost to be allowed as a basis or the rates to be charged the general public. The justification usually dvanced for the capitalization of a development cost in this way is that uring its early years a utility operates at a loss while extending its ystem and placing itself in a position to serve the public; that this oss is just as much a part of the cost of the property as is the cost f the constructed plant, and that therefore a return should be allowed pon the aggregate loss upon the same basis as upon the plant. In the resent case, however, the loss was not incurred while the company was lacing itself in a position to serve the public, but was the result of

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operations carried on for the indirect benefit of the stockholders of t company. The claim that the public should be burdened with t return on these losses therefore appears rather far-fetched. Neither we satisfied with the reasons presented for an expenditure of $76,1 in the negotiation of a power contract between the right hand and t left hand, nor with the implied contention that the existence of th contract has benefited the public served from the Sierra system. allowance will be made for the item of development cost.

Franchises.

In the revised figures no allowance has yet been made for the cost acquisition of franchises. The franchises of Pacific Gas and Elect Company were apparently considered as constituting a part of t going value, an item which has been largely eliminated herein, and have excluded franchise costs from the organization expense of t Sierra Company. The annual reports of Pacific Gas and Electric Co pany, filed with the Commission and stipulated into the record, show complete list of that company's franchises, and after due considerati we find $25,000 to be a fair estimate of the amount to be allowed this case. In the case of the franchises of Sierra Company, Mr. Rhod shows the payments made directly for franchises to be $386 and giv a figure for the expense of acquisition of $3,800. We believe th $4,000 will be a reasonable allowance for these franchises, making total allowance for all franchises in connection with the proper operated by Pacific Gas and Electric Company of $29,000.

Working Capital.

In giving consideration to the allowance which should be made f working capital, it seems that attention should be directed to the amou of business which Pacific Gas and Electric Company transacts as whole rather than to operating expenses or other factors affecting eith part of its system. In making its estimate of the amount of worki capital required, applicant has taken one-sixth of the annual operati expenses exclusive of taxes, which amounts to $1,485,000, and has add the inventory of materials and supplies actually on hand in its wa houses, excluding, however, those which are held for use by the co struction department. These materials and supplies are valued $3,165,000, making a total of $4,650,000 from which has been deduct $388,336 advanced by consumers in order to secure the construction line extensions and now held by the company subject to refund accordance with agreement. This leaves a net figure of $4,261,6 which is the company's claim for working capital. In estimating t amount of cash necessary to be carried on hand at one-sixth of t annual operating expenses, applicant has followed a rule which h often been used by this Commission in the case of smaller utilities.

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oncern grows, however, the amount of cash which must be carried hand to meet incoming invoices, etc., does not increase in propor-ı. This company is now firmly established and receives remittances m consumers and pays bills for supplies practically every day in month. It must carry a safe balance in bank but the amount of this ance does not bear the same relation to the period that elapses ween the date of service rendered and the receipt of consumer's pay-ıt, as it does in smaller and weaker companies. In view of these ditions, the sum of $1,250,000 will be considered adequate for this n.

Another factor to be considered in connection with the matter of rking capital is that under the method of accruing taxes used as a is for estimates elsewhere in this decision, taxes are accrued before rment rather than after. The company is therefore accruing money ich is paid out at six months intervals instead of monthly as in the e of other operating expenses. The total amount of state taxes, as imated elsewhere in this decision, is, roughly, $1,700,000 per year. der the method of monthly accrual and semi-annual payment, the ıpany will evidently have an average of one-quarter of this sum on ıd at all times, and $425,000 may therefore be deducted from the ount of cash necessary to be considered as a part of the working ›ital.

The evidence shows that the sum taken for the value of material and ›plies includes all material on hand in the company's local ware-ıses but none of the material destined to be used by the department the company which handles the heavy construction work, such as new nsmission lines, substations, etc. A great deal of the material in al warehouses, however, finds its way into the smaller extensions to ınt and is not kept on hand for operating or maintenance purposes. reful consideration has been given to this factor in other cases before › Commission and in this instance we believe that an allowance for terials and supplies of $1,500,000 will be entirely adequate.

The total allowance to be made for working capital will be:

rking cash	$1,250,000 00	
terials and supplies	1,500,000 00	
Total		$2,750,000 00
luct average tax accruals on hand		425,000 00
t allowance for working capital		$2,325,000 00

For the sake of clarity the deduction on account of consumers' vance payments on account of line extensions will be shown sepa-:ely instead of including it with the consideration of working capital.

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Additions and Betterments.

In the foregoing, consideration has been directed entirely to the e
mate of the reasonable historical reproduction cost of the physical pr
erty as of December 31, 1919, and the figures already discussed m
therefore be increased by a proper allowance for additions and bett
ments to the system since that date. The cost of these additions a
betterments is reflected in the books of the company, which are kept
accordance with the requirements of the Commission, and there has b
but little question in regard to the correctness of the figures present
One correction that is worthy of mention is the addition to the figu
presented of $119,834 spent in the acquisition of certain water rigl
Because its claim for water rights was based upon their value as e
mated by the company, the company deducted this figure from the c
of additions and betterments. Upon the basis used by the Commiss
this item should be included with the allowances for water rights p
viously discussed. Summarizing the findings as to reasonable histori
cost and adding the additions and betterments to June 30, 1921,
have the physical capital for that date as shown in Table No. 7.

TABLE No. 7.

**Estimated Reasonable Historical Reproduction Cost, Electric Department Prope
Pacific Gas and Electric Company, Including Land at Present Value.**

	December 31, 1919.			
	Owned system	Leased system	Total	Total Ju 30, 192
Production—hydro	$25,546,544	$5,807,186	$31,353,730	$32,134,
Production—steam	5,835,893	1,511,776	7,347,669	7,407,
Transmission	9,131,062	2,154,069	11,285,131	12,527,
Distribution	30,901,612	2,719,375	33,620,987	36,383,
Electric department, general	971,857	199,393	1,171,250	1,323,
Pro rata of all departments	1,539,151		1,539,151	1,747,
Totals	$73,926,119	$12,391,799	$86,317,918	$91,524,

The addition to the total shown in this table of the additions a
betterments for the last six months of 1921 and a proportion of e
mated additions and betterments for 1922 corresponding to the part
the year the property will be in operation results in a figure for avera
physical capital for the year 1922 of $105,413,461. This includes
new Spring Gap power plant on the Sierra system and the Hat Cr
plants of Mount Shasta Power Corporation, all of which were placed
operation in 1921. There is also included a proportion of the cost
the Pit No. 1 plant and transmission line of Mount Shasta Power C
poration which were placed in active operation October 15, 1922.
question as to the extent to which the full capacity of this transmissi
line can be utilized under present conditions of load and pla
development will be taken up at a later point. The combination
physical capital with the allowances for other elements of the rate ba
previously discussed, is shown in the second column of Table No

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and gives a total of $109,723,695 as the sum upon which a reasonable return should be earned.

TABLE No. 8.

Reasonable Rate Base, 1922—Electric Department, Pacific Gas and Electric Company, Including System of S. & S. F. P. Co. Operated Under Lease.

	Company's claim	Commission's finding
Physical property, including land	$133,170,586	$105,413,461
Organization expense	559,736	474,736
Water rights	15,307,800	1,869,834
Going value and development cost	17,411,485	----------
Franchises	----------	29,000
Working capital	4,650,000	2,325,000
Deduct consumers' advances on line extensions	388,336	388,336
Total rate base	$170,711,271	$109,723,695

Rate of Return.

In its early decisions dealing with the rates of electric utilities, the Commission gave careful consideration to the rate of return that should be allowed upon the reasonable investment and in a number of cases held that 8 per cent per annum would be a fair return. In later cases this figure was frequently adopted, although where special considerations were involved or where such return would appear to be unreasonable to the consumer it was not always adhered to. With the increase of interest rates at the time of the war and immediately thereafter, even the strongest utilities found that they could not borrow money without paying more than 8 per cent interest and in a number of recent decisions recignition has been given to this fact by the consideration of a return of 8 per cent on money invested before the war and a slightly higher return on money invested during the period of high interest rates. In the case now before us, however, we find that Pacific Gas and Electric Company has made only a comparatively small investment during the years in which interest rates were above normal. Under such circumstances, we see no reason for allowing a return materially greater than that which would otherwise be found reasonable. It is true, however, that some investment was made during the period of high interest rates and that the average cost of the money invested is slightly greater now than before the war.

An income tax has been imposed by the federal government since this Commission first acquired jurisdiction over power utilities and established what it considered a fair rate of return. This tax is now 12½ per cent of net revenue after bond interest, depreciation and certain other smaller deductions, which in this case is equivalent to approximately four-tenths of one per cent on the reasonable rate base found herein. If this tax were allowed as a part of the return to the company, a return of 8.4 per cent at the present time would be approximately equivalent to the 8 per cent allowed in 1913.

On the other hand, the company is larger, has a more diversified business and has, by absorption, eliminated the prospect of no small

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amount of competition. More than ever before the production and distribution of electrical energy is recognized as an essential and basic industry and the confidence of the investing public in the soundness of state regulation is becoming more firmly established. The benefits to the investor of supervision of financial operations and the encouragement by large utilities of "customer ownership" have contributed to a wider distribution of securities and a broader market for new issues. Under such conditions a utility should be able to finance itself much more cheaply than before and we believe that this factor may fairly and safely be considered as offsetting the effect of federal income tax and of the increase in interest rates during the period of high price in so far as such interest rates have affected the operations of this company. A return of 8 per cent upon the estimated reasonable investment will therefore be allowed in the present proceeding.

Depreciation.

In its Exhibit No. 40, applicant presents an estimate of reasonable depreciation annuities to be allowed upon the property of June 30, 1921. This set-up is calculated upon the 6 per cent sinking fund basis which has been used by the Commission during recent years, and the lives used are in line with those used in recent decisions of the Commission. The suggested annuities have therefore not been subject to serious question. A summary of the exhibit is shown in Table No. 9.

TABLE No. 9.

Depreciation Annuities, Six Per Cent, Sinking Fund Basis, Operative Electric Properties of June 30, 1921—Pacific Gas and Electric Company and Sierra and San Francisco Power Company.

(Summarized from Applicant's Exhibit 40.)

	Historical cost, non-landed property	Av. rate (Approx.)	Annuity
Pacific Gas and Electric Company.			
Production—hydro	$27,591,325	0.64%	$175,482
Production—steam	5,537,344	2.13	117,641
Transmission	9,472,239	1.13	107,364
Distribution	33,264,856	2.67	888,252
Electric department, general	897,672	4.24	38,034
Pro rata of all departments	1,260,873	3.25	40,931
Totals	$78,024,289		$1,367,704
Sierra and San Francisco Power Company.			
Production—hydro	$5,740,504	0.71%	$40,740
Production—steam	1,393,195	2.15	29,886
Transmission	1,994,806	.63	12,679
Distribution	2,788,744	2.28	63,448
General	216,699	4.94	10,648
Totals	$12,133,948		$157,401
Total depreciation annuity—owned and leased property			$1,525,105

It has been our position in recent cases that an income allowed a utility for specific purposes, such as depreciation of its plant, should be used only for that purpose, and utilities have therefore been required to account strictly for depreciation annuities which they have been per-

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tted to earn. This also applies to interest upon the accumulated serve which is expected to supplement these annuities and at the d of the useful life of the property provided a sum sufficient to ire it. In contemplation of such an order in this case, Mr. L. S. ady, the Commission's assistant chief engineer, introduced in evi- nce a calculation of the proper amount of the depreciation reserve r Pacific Gas and Electric Company's property as of January 1, 1922. r. Ready's calculation was based upon the assumption of the earning annuities in the past comparable to those suggested by the company the present proceeding and he followed the history of the reserve om 1906 to the present time, finally arriving at the conclusion that the serve should now amount to approximately $10,000,000. The com- ny denied the correctness of this estimate and presented another lculation, based upon the condition of the property as determined the engineers during the valuation made for this proceeding. It und that upon the 6 per cent sinking fund basis the reserve for the preciation found by the engineers from an inspection in the field ould amount to approximately $7,000,000. Consideration of the o methods followed shows a number of reasons for the differential in al results, chief among which may be mentioned the fact that depre- ation annuities as proposed by the company and as usually allowed are tended to cover inadequacy and obsolescence as well as deterioration, ile an estimate of the present condition of the property based upon spection, would rest almost entirely upon the factor of deterioration. is doubtful, however, if this consideration would account for the tire difference between the figures arrived at by the different methods calculation. The attorneys for the company and for the cities agreed at probably neither calculation was strictly correct and urged that nsideration be given to both of them. We are inclined to agree that is is the proper procedure, and after full consideration have con- uded that the reserve for the property of Pacific Gas and Electric mpany, exclusive of Sierra properties, as of January 1, 1922, should ount to $8,000,000. As Mr. Ready's calculation was based almost tirely upon the annuities suggested by the company in its exhibit it ems clear that if the reserve which he has calculated is too large, the ggested annuities upon which he has based his calculations are also o large and should be somewhat reduced. Further revision in the ms to be earned on account of depreciation will be necessary on count of revisions which have been made in the estimates of reason- le cost of the property in question and on account of additional operty placed in operation since the effective date of applicant's lculations.

The Sierra property did not come under the control of Pacific Gas d Electric Company until January 1, 1920, and that company can

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not be considered responsible for the accretions which should h reached the reserve before that date. In the present proceeding, h ever, a return is being allowed upon the full estimated original of the Sierra properties and Pacific Gas and Electric Company r reasonably be required to add to the reserve each year interest at 6 cent upon the accrued depreciation, and may also be held respons for the sums which should have been added to the reserve since J uary 1, 1920, when it assumed control of the Sierra properties. Order accompanying this decision will provide for the setting up depreciation reserve for the Sierra property and for the setting a each year, in addition to the annuities herein allowed, of interest per cent on not less than $1,500,000 as of January 1, 1922. In gesting the depreciation annuity to be earned upon the Sierra prope applicant used the same lives as in calculating annuities upon its property, and the reduction in the annuities for Pacific Gas and E tric Company property will also be applied to the annuities for Sierra properties. The annuities which we find to be reasonable the year 1922 are $1,279,100 for Pacific Gas and Electric Comp property and $152,700 for Sierra and San Francisco Power Comp property, a total of $1,431,800 for the system.

Operating Expenses.

Actual operating expenses for the calendar years 1920 and 1 are shown by exhibits filed by the company, and early in the year estimate of expenses for 1922 was presented. Near the close of the this figure was somewhat revised in the light of the actual experie of the first eight months of the year. Operating revenues and expe for the years 1920, 1921 and 1922, covering the period during w the properties have been under unified operation are shown in T No. 10:

TABLE No. 10.

Operating Revenues and Expenses—Electric Department, Pacific Gas and Ele Company, Including Leased Property.

	1920	1921	8 months ac 4 months esti 1922
Gross revenue—			
From consumers	$21,553,632	$22,480,029	$23,47
Inter-departmental	387,849	418,018	48
Totals	$21,941,481	$22,898,047	$23,95
Operating expenses—			
Maintenance	$1,885,695	$2,196,558	$1,95
Operation—			
Fuel oil	4,550,335	2,168,107	1,44
Purchased power	693,642	1,357,943	1,44
Other operating expenses	945,658	967,631	98
Transmission	262,566	290,294	33
Distribution	1,981,792	2,277,046	2,38
General and administrative	660,929	784,250	79
Taxes	1,697,879	2,095,027	2,23
Insurance and bad debt reserves	196,776	314,818	34
Totals	$12,875,272	$12,451,674	$11,91
Net revenue available for depreciation and return	$9,066,209	$10,446,373	$12,03

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These figures for 1922 are largely the result of actual operations and y be accepted as fairly showing the charges that will be made upon books for the year. Their reasonableness as a basis for future es is subject to some consideration.

During the war and immediately following, great difficulty was erienced in securing labor and material for maintenance work, and a result many repairs necessary to keep the system in efficient operng condition but not immediately required, were postponed. During past three years, it has been necessary to catch up with this work, l there was much argument as to how much of the recent mainteice expenses were due to normal maintenance and how much due to deferred maintenance. Engineers representing cities and the lroad Commission made a study of maintenance and operating enses for the past seven years, analyzing unit costs and the effect of nges in the levels of material prices and wages. From a considtion of this study and of the testimony of the company's witnesses, believe that part of the maintenance reported for the year 1922 is to the deferring of work from previous years. A reduction of 0,000 in the figure for maintenance will be made before considering s a basis for future rates.

es.

n setting up its figures for taxes, the company has calculated state es upon the basis adopted by this Commission in recent decisions—t is, the figure used is the amount of the tax that is levied and omes a lien upon the property during March of the calendar year. e-half of this sum is payable in July and the other half early in the owing year. The inclusion of taxes in operating expenses upon this s, therefore, results in the accrual of each installment of taxes ing the six months preceding its payment. In connection with the wance for working capital, consideration is given to the use which company has made of the money so accrued. The legality of this hod of treatment of state taxes is now before the supreme court of state in the case of *Saunby* vs. *Railroad Commission*. The conion is made in that case that the taxes to be included in operating enses are those actually paid during a given calendar year instead hose levied and becoming a lien. The result of such a policy would hat installments due in January and July would be accrued after ment rather than before and tax requirements would have to be ed to instead of deducted from working capital as calculated upon basis of operating expenses exclusive of taxes. We believe the hod we have adopted will more nearly result in the inclusion of s in the operating expenses of the property against which they are ed and that it is therefore the more logical of the two.

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Owing to the disposition of federal income tax in the discuss above, this tax therefore is not allowed here as an operating expens

The allowance for taxes which we consider reasonable for the y 1922 is $1,749,000.

Some question was raised regarding the reasonableness of the su which the company desires to set aside to reserves for uncollecti accounts, fire and casualty insurance. The actual write-offs, on acco of bad debts, are shown by the evidence to have averaged during past seven years approximately four-tenths of one per cent of gr revenue and this appears to be a proper basis for the allowance to made on this account. The application of this percentage to the gr revenue estimated herein to be reasonable results in an allowance the electric department of $86,000 as compared with the compan claim of $104,423. The report of the Commission's auditing depa ment shows that the fire and casualty insurance reserve for all pr erties totaled $172,704 on December 31, 1921. In view of the fact t this company is now operating property costing in excess $125,000,000, with a large number of employees for whom casua insurance must be carried, it can hardly be urged that $172,000 is unreasonable reserve to hold for protection against loss from fire accident. The amount of this reserve has considerably increased d ing the past two years, however, even with smaller accruals than th now proposed and we believe that the sum of $236,477 suggested n safely be reduced to $200,000. Adding the allowance for bad d reserve already discussed gives a total for these reserves of $286,000.

Considering the sums already found reasonable for depreciation a return and adding the modified operating expenses, we may build up total gross revenue reasonably necessary for the year 1922, as in Ta No. 11. Our audit of the company's books shows an item of $11, of pole rentals received in excess of pole rentals paid, which has b credited to nonoperating revenue, but which is earned through the of property included in the rate base and which should, therefore credited to the earning upon that property. This amount has b added to the company's estimate of gross revenue for 1922 in bring it forward for comparison with the revenue found to be reasonable 1922.

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TABLE No. 11.

Reasonable Gross Operating Revenue—1922 Electric Department—Pacific Gas and Electric Company, Including Leased Property of Sierra and San Francisco Power Company.

Return rate base	$109,723,695	
Return at 8 per cent	$8,777,900	
Depreciation	1,431,800	
Total reasonable net revenue		$10,209,700
Maintenance	$1,850,000	
Operation—		
Fuel oil	1,448,000	
Purchased power	1,446,000	
Other production	990,000	
Total production	$3,884,000	
Transmission	333,000	
Distribution	2,381,000	
General	791,000	
Taxes	1,749,000	
Insurance and bad debt reserves	286,000	
Total operating expenses		11,274,000
Total reasonable gross revenue		$21,483,700
Revenue from present rates		23,967,300
Total possible reduction		2,483,600

No attempt will be made to set up detailed estimates of revenues and expenses for 1923, but as rates are to be fixed for the future rather than for the past, consideration will be given to some of the important aspects in which operating conditions will be changed. Perhaps the most important of these changes will be the operation of the new Pit River hydro-electric plant and transmission line for the entire year instead of for but two and one-half months, as in 1922. The result of this operation will be that a large amount of new hydro-electric power will be available and the cost of fuel oil and purchased energy will correspondingly be reduced. This reduction in operating expenses is offset by increased expenses due to the operation of the new plant and transmission line and by an important increase in fixed charges through the inclusion of a large amount of capital for a full year instead of for a fraction of the year. In anticipation of the readiness of the new plant during the fall, the company was able to make more extensive use of its stored water during the summer of 1922 than would otherwise have been possible, and operations for 1922 show a greater proportion of the benefits of the new development than they do of its cost. It is urged by the representative of the Farm Bureau that this development has a capacity largely in excess of that which will be useful at the present time and that no part of its cost should be included in the rate base for 1922. However, the operating expenses and fixed charges for 1922 as calculated in the brief for the Farm Bureau are evidently based upon the use of energy from this plant and advantage is taken of a corresponding reduction in the cost of fuel oil and purchased power. This

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may be taken as an admission that the output of the plant could b advantageously used. The development of this plant and the transmis sion facilities necessary to bring its output to the center of load is on of those initial steps that must be taken from time to time in almos every business, and which involve an expenditure out of proportion t the immediate benefit to be derived, but fully justified if the future b considered. A careful consideration of the company's past and prospec tive operations leads us to believe that the reduction in operatin expenses through the operation of this plant will no more than equa the additional fixed charges until the load has increased somewha beyond that to be expected for 1923. A large development such as thi can hardly be expected to earn a full return from the date of completio of its first unit, and it will have to be carried by the company at partial return until such time as a full return can be realized. It doe not appear, however, that any deduction in operating costs ought to b made on account of economies to be effected by the plant during th coming year.

Up to July 1, 1922, the price of fuel oil to Pacific Gas and Electri Company was $1.43 per barrel. Shortly after July 1, 1922, two reduc tions in close succession brought this price down to 93 cents per barre at which it now stands. In applying a correction to the cost of fuel oi for the coming year on account of this reduction in price, consideratio must be given to the decreased requirements on account of the availa bility of additional water power. Giving due consideration to thi factor a reasonable correction in operating expenses for the coming yea appears to be a reduction of $125,000. This indicates a total reason able reduction in rates below the present level of approximatel $2,600,000.

There are on file with the Commission at the present time, and effec tive on applicant's system, fifty-eight (58) different rate schedules, i addition to special contracts including those for street railway service street lighting service and other special service not covered by th regular schedules. Thirty-three (33) of these schedules apply on th Pacific Gas and Electric Company's system as it existed prior to th purchase of the Northern California Power Company, seventeen (17 on the system of the former Northern California Power Company, an eight (8) on the system leased from Sierra and San Francisco Powe Company. It was the consensus of opinion of all parties represente that the schedules should be simplified and reduced in number in so fa as possible and still maintain flexibility. The present rates includ some that were made to meet competitive conditions, some inherite from consolidated companies, and others occasioned by the retention o certain schedules now obsolete, but which were not possible of elimina tion except in a main rate proceeding such as this. An adjustment o

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es to apportion more equitably the charges between groups of con-
ners and classes of service in connection with reduction of rates is
visable.

Much evidence was introduced relative to the division of the charges
electric service among the various classes of consumers. A detailed
alysis was submitted by Mr. B. B. Beckett for Yuba Consolidated Gold
lds, Incorporated, and by Mr. H. G. Butler, engineer representing
California Metal and Mineral Producers Association, setting forth
imates of the cost of service to the mining and gold dredging indus-
es as compared with others, and the conditions surrounding the
vice tending to justify special consideration from the cost and value
service standpoints. An extensive study was also submitted by the
lamation interests through their engineer, Mr. R. G. Clifford, relative
the conditions affecting the cost, value, and quality of service ren-
ed to this class of industry, and to a certain extent to agricultural
vice in general. Considerable evidence was submitted by Messrs.
acent, Piatt and Shaw for the applicant, setting forth data relative
the matters of cost of service and suggestions as to rates. Recom-
ndations were presented by the steel manufacturing industry urging
dification in standard schedules to meet special conditions existing in
business. Evidence was introduced by the Commission's engineers
ative to modification of the agricultural schedules and general changes
rates.

The fixing of rates and the equitable division of charges on a system
extensive as that of applicant is a problem in the solution of which
exact rule or formula can be used. The approximate cost of render-
the several classes of service; the economic value of the service to
individuals and groups of consumers; the rates heretofore in effect
d their results upon the operations of the consumers; the elimination
discriminatory conditions amongst classes and districts and the
neral effect on future development of business of new rates must be
nsidered in the division among the various classes and groups of con-
ners of the total revenue which the company is entitled to receive.
rms of rates must be relatively simple, yet must meet the widely
rying conditions of retail and wholesale service. It is impossible and
economical to attempt to fix rates such that each district or each class
consumer will return to the company an equal rate of compensation
the average proportion of the plant necessary for their service.
e system is so extensive and receives power from so many points that
service to the different classes of consumers is largely inter-
pendent as to costs.

It is the conclusion of practically all witnesses and of the various
presentatives before the Commission, that service to certain basic
lustries may reasonably be rendered at a less net profit on the average

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investment than must be obtained from the average of all classes. A
that within reasonable limits developing business and service in deve
ing territory should not be expected to return to the utility as grea
net as business in the more congested districts. Evidence in this p
ceeding indicates as has been many times stated, that the profit or ret
upon capital invested in the congested incorporated territories is grea
than in the developing rural territories served. If this is not to
continued the extension and development of the rural and unincor
rated territory will be stifled and such policy must ultimately work
the detriment of the more congested districts. In the rates fixed her
consideration is given both to the justification on the one hand, fo
lower lighting rate in the incorporated territory than in the unin
porated territory, and also to the justification and fairness of fix
a reduced rate for power sold for redistribution in unincorpora
territory still in the development stage.

The rates in some instances upon the former Northern Califor
system are lower than are herein fixed. However, the rates as t
existed on that system were not such as made for healthy developm
and good service. It appears fair to fix at this time generally unif
schedules over the entire system including this district. The rates
the Sierra and San Francisco Power Company's system leased to
Pacific Gas and Electric Company are in many instances higher t
those on the Pacific Company's system. Although complete corpor
ownership does not exist, we can see no reasonable justification
fixing higher rates in the territory served from the leased system, t
the rates fixed for territory adjacent thereto, operated by the sa
company.

Three general lighting rates are fixed herein for the entire syst
one for the congested metropolitan area of the bay district, one
other municipalities and incorporated territory on the system, and
for rural territory.

The conditions complained of in Case No. 1669 relative to
crimination in rates in the city of San Francisco are removed by
elimination of the zones heretofore in effect and the fixing of schedu
applicable to the entire city.

Street lighting rates heretofore in effect have varied considera
between communities and it appears at this time proper that a unif
schedule for street lighting be fixed, which shall be the standard
existing service, and future service to be supplied. In view of the f
that the schedule proposed, if made effective to all consumers to wh
it is applicable will result in material increases in certain instan
this schedule will be made applicable at this time to such service wh
rates will be reduced, and existing rates will be continued where t

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re lower than the proposed schedule until the end of the present contract period for the separate communities served, before the uniform tandard is applied.

Special consideration has been given to the various recommendations ıade in the fixing of the cooking and heating schedules.

A general power schedule has been fixed, applicable to commercial nd industrial power service throughout the entire system. This chedule applies to service rendered at standard voltages.

The rates for agricultural service were considered by all those who ave submitted any evidence in the case relative to charges to various lasses of service and it is conceded by them that at the present time this lass of service does not, and should not bear its ratable share of the osts.

Due to the nature of the industry the evidence shows that the present ates for agricultural service need revision for many reasons—the rincipal one of which is the number of optional schedules from which ıe consumers must choose the rate which they hope will be the most dvantageous. The evidence also shows without contradiction, except ı argument, that small installations operating at a low-load factor are nder present rates receiving an undue advantage in comparison with ırge and higher-load factor consumers, and there is some indication ıat the small low-load factor consumer is being served at less than the out-of-pocket'' cost. There appears to be a tendency in many ıstances for agricultural consumers to install large plants which will andle their irrigation quickly, thus saving labor charges. Unless a roper differential is maintaind between low and high-load factor sers, the proportion of short use will steadily increase with the esultant increase in average cost of agricultural service. It therefore eems advisable to modify the distribution of charges between various lasses of agricultural consumers and at the present time to combine ıe optional schedules into one rate for increased consumption and liminate the necessity of speculative choice before the commencement f the pumping season.

The evidence submitted by the reclamation interests indicates the dvisability of a rate which will take into consideration the apparent ow cost of service to reclamation consumers and at the same time be ointly applicable to both reclamation and irrigation, as plants are often sed for both services. The present rates for reclamation service proide for the ownership of transformers by consumers. This requireent has been found by the Commission to be unsatisfactory. The transormers are a part of the necessary equipment for rendering service to he consumer, and should be owned by the company, and service ıetered at the voltage at which the consumer receives the same. The

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rates herein fixed contemplate ownership of transformers by the co pany and the metering of service on the secondary side of the tra formers, but are also designed to give credit to the consumer wh transformers are retained. The company will be directed to submit the Commission a plan for the taking over of transformers where consumers elect.

The reclamation districts point out that in several instances un the present rules of Pacific Gas and Electric Company they have b required to construct transmission and distribution lines across priv property to their plants at their own expense; that, due to the cor tions existing, it is impossible for the transmission and distribution li to follow the public highways, and that in view of this fact, the compa should be required to construct lines across private property in general reclamation territory at its own expense. It does not app that the conditions in the territory where reclamation service is r dered are comparable with those where the territory is well divided with public highways that can be reasonably used by the utility. Un these conditions at least the utility should extend wherever rights way can be reasonably obtained, and not require consumers to constr and own parts of the general transmission and distribution system. company should take over existing lines coming under this classificati

Careful consideration has been given to the various claims and to evidence submitted on behalf of the mining, dredging, and industr interests. The wholesale power rate herein fixed is designed to g credit for the lower cost of service where high-load factor exists, in the dredging service, and it does not appear necessary to continu special dredging rate at this time. The mining rates of the Pac Gas and Electric Company are the inheritance of early attempts at r fixing. The exclusive mining rates consist of flat energy rates per k watt hour regardless of load factor. The rates other than in the Mot Lode, are approximately twenty per cent higher than rates in Mother Lode district in Calaveras, Tuolumne and El Dorado count for similar service. A further disadvantage exists due to requir ownership of transformers by consumers. We can not conclude fr the evidence that there is justification for a special reduction below general power schedule for mining service. It does not appear on other hand, that the Commission is justified at this time in requir existing consumers on Schedule P-5 and S. P-2 to be placed on general power schedules, although it does appear reasonable that as all future mining consumers, this be required. With certain modifi tion, the existing mining Schedule P-5 and S. P-2 will be continu but closed as to future consumers.

It is very apparent that some assistance should be given to res utilities in the development of territory along the same lines t

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undeveloped territory is aided on the applicant's system. In fixing the resale rate herein, a special discount has therefore been applied to the standard resale schedule to be made applicable in proportion as the utility extends its system and renders service in the rural, as distinguished from incorporated territory.

Applicant is engaged in supplying a considerable portion of its energy for the operation of electric street and interurban railways. This service is rendered in some instances at 600 volts direct current, and in other cases, alternating current at 2200 and 11,000 volts delivery; railway company operating the converting apparatus. The rates at present in effect have been based on special contracts with the different railway companies, but in general are fairly uniform. The rate for service to the Market Street Railway Company is provided, under a special contract between the Sierra and San Francisco Power Company, and that railway company as successor to the original party to the contract, and provides for a number of services to be rendered by the power company in the form of installation of converting equipment and certain distribution lines which are normally not a part of the rendering of service to the railway company substations. Certain adjustments for the special conditions are included which it does not appear should be made the part of a rate for service to a railway company. It is our conclusion that a general rate for street railway service should be fixed, applicable to delivery of alternating current power at standard distribution voltage at substations or to the interconnecting net work of the railway company, and that additional services given should be covered by special agreement between the parties; this to apply to the delivery of alternating current service. In the case of the agreement of the power company to deliver direct current service, a standard rate should be fixed for this service based upon the metering as now generally in effect. It does not appear that as to street railway and general interurban railway service, the rate need be made on a load factor basis as the requirements for power are fixed largely by the demand of the public for transportation and are not within the control of the street railway company. Some limitation should, however, be made where the load factor of the railway system is relatively low. A standard railway service rate is therefore fixed for all railway service on the combined systems.

The company presented a proposed system of discounts and penalties to apply to large power consumers to give partial recognition to the effects of power factor on the cost of service. A system of discounts to apply on power service where improved power factor is obtained is advisable and such a plan should be adopted where practicable. The evidence and analysis does not appear such as to justify the acceptance of the proposal as submitted and it is suggested that this be the subject

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of further study and conference between the company's and Commission's engineers.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for an order fixing just and reasonable rates, various complaints having been filed and consolidated therewith as herein set forth, public hearings having been held, the matter being submitted and now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the rates of Pacific Gas and Electric Company are unjust, unreasonable and discriminatory in so far as they differ from the rates herein provided.

Basing this order on the foregoing finding of fact and on the findings of fact in the opinion preceding this order;

It is hereby ordered, as follows:

1. That Pacific Gas and Electric Company charge and collect for electric service now supplied under filed schedules, the rates set forth in Exhibit "A" which is attached hereto and made a part hereof.

Such rates to be filed with this Commission on or before February 1, 1923, and to become effective for metered service with bills rendered, based upon regular monthly meter readings taken on and after February 20, 1923, and for flat service delivered after February 1, 1923.

2. That Pacific Gas and Electric Company charge and collect for electric service now supplied under special contracts, the rates and charges set forth in said Exhibit "A" except where such schedules are not applicable to the conditions under which such service is supplied; *provided,* that srevice for street lighting may, at the option of the consumer, be supplied at the rates provided in existing contracts exclusive of the 6 per cent surcharge now in effect for service delivered after February 1, 1923, until the expiration of the term of such contracts.

3. That Pacific Gas and Electric Company charge and collect for electric service now supplied under special contracts and under conditions to which the rates set forth in said Exhibit "A" are not applicable, the rates and charges provided in such special contract exclusive of the 6 per cent surcharge now in effect, effective for metered and flat rate service as provided in "(1)" above.

4. That until July 1, 1923, Pacific Gas and Electric Company charge and collect for electric service now supplied under Schedule No. N.C.-3 C.R.C. sheet 2041-E the rates and charges therein provided including the 6 per cent surcharge now in effect.

5. That Pacific Gas and Electric Company, at the option of the consumers, continue to charge and collect for service supplied to existing consumers under its Schedule P-5 C.R.C. sheet No. 1103-E and S.P.-2

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.R.C. sheet 3029-E the rates and charges therein provided including he 6 per cent surcharge now in effect; *provided*, that these schedules hall be closed to future consumers.

6. That Pacific Gas and Electric Company submit to this Commission for its approval, by July 1, 1923, schedule of street lighting rates or service other than that covered in Schedule L-4 of Exhibit "A" ttached hereto.

7. That in territory where public highways are not generally available or the construction of its lines, Pacific Gas and Electric Company shall ereafter construct necessary transmission or distribution lines on rivate property where right of way easements can be reasonably btained, under the same company rules that apply to the construction f lines upon public highways.

8. That on or before April 1, 1923, Pacific Gas and Electric Company le for the approval of this Commission, a statement of uniform conitions under which it will purchase transmission or distribution lines nd transformers as required by section 7 of this order, or by provisions f rate schedules fixed in this order to be hereafter provided by Pacific las and Electric Company, but now owned by consumers.

9. That on or before February 1, 1923, Pacific Gas and Electric ompany file for the approval of this Commission a statement of the ntries which it proposes to make upon its books in adjusting depreciaon reserves to comply with the principle laid down in the opinion receding this order.

10. That Case No. 930, *City of Sacramento* vs. *Pacific Gas and Elec-ic Company*, Case No. 996, *City of Grass Valley* vs. *Pacific Gas and lectric Company*, Case No. 1203, *City of Oakland* vs. *Pacific Gas and lectric Company*, Case No. 748, *W. F. Wheeler et al.* vs. *Sierra and an Francisco Power Company*, and Case No. 934, *Peter Knollenburg t al.* vs. *Sierra and San Francisco Power Company*, be and the same re hereby dismissed.

11. That Case No. 840, *City of San Francisco* vs. *Pacific Gas and lectric Company*, and Case No. 1669, *C. E. Moerlle et al*, vs. *Pacific as and Electric Company et al.*, be and the same are hereby dismissed n so far as they concern Pacific Gas and Electric Company.

12. That Case No. 1786, *City of Sacramento* vs. *Pacific Gas and lectric Company*, be and the same is hereby dismissed in so far as it ffects the future rates and charges of Pacific Gas and Electric Company, but that it be set down upon the calendar of this Commission or further hearing regarding petition of city of Sacramento for eparations on account of alleged past overcharges.

13. That the effective date of this order be January 20, 1923.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of December, 1922.

EXHIBIT "A"

SCHEDULE L-1.

(Canceling L-3, L-4, L-5 and L-13.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and small power service.

Territory.

Applicable to service within the incorporated limits of San Francisco, Oakland, Berkeley, Piedmont, Emeryville, San Leandro and Albany.

Rate.

First	10 kilowatt hours or less per meter per month	90 c per month
Next	40 kilowatt hours per meter per month	6 c per kilowatt hour
Next	150 kilowatt hours per meter per month	5 c per kilowatt hour
Next	800 kilowatt hours per meter per month	4 c per kilowatt hour
Next	2000 kilowatt hours per meter per month	3 c per kilowatt hour
All over	3000 kilowatt hours per meter per month	2½c per kilowatt hour

Special Conditions.

(*a*) Single-phase motors of a capacity of 5 h.p. or less may receive service or may be combined with general lighting service under this schedule of rates at the option of the consumer, provided in case of combination service the total energy is supplied through one meter.

The minimum charge applicable to this combination service is the minimum charge as set forth above.

(*b*) Motors of a capacity in excess of 5 horsepower may receive service or be combined with general lighting service under this schedule of rates at the option of the consumer, provided in case of combination service the total energy may be supplied through one meter, in which case the total minimum charge will be 90 cents per horsepower per month of motor load.

Combination will not be made between A.C. and D.C. service, single-phase and polyphase will not be combined unless obtainable from the same service wires.

(*c*) The company has the option of refusing D.C. service where both A.C. and D.C. service are available.

SCHEDULE L-2.

(Canceling L-1, L-12, L-13, NL-1, SL-1 and SL-2.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single-phase service to motor loads not to exceed 5 horsepower capacity.

Territory.

Applicable to service within *all incorporated limits* served by company *except* San Francisco, Oakland, Berkeley, Piedmont, Emeryville, San Leandro and Albany.

Rate.

First	10 kilowatt hours or less per meter per month	$1.00
Next	40 kilowatt hours per meter per month	6 c per kilowatt hour
Next	150 kilowatt hours per meter per month	5 c per kilowatt hour
Next	800 kilowatt hours per meter per month	4 c per kilowatt hour
Next	2000 kilowatt hours per meter per month	3 c per kilowatt hour
All over	3000 kilowatt hours per meter per month	2½c per kilowatt hour

Special Conditions.

(*a*) Single-phase motors of a capacity of 5 horsepower or less may receive service or may be combined with general lighting service under this schedule of rates at the option of the consumer, provided in case of combination service the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge as set forth above.

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SCHEDULE L-3.

(Canceling L-2, L-13, NL-1 and SL-1.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single-phase service to motor loads not to exceed 5 horsepower capacity.

Territory.

Applicable to service in entire territory served, outside of incorporated limits.

Rate.

First	10 kilowatt hours or less per meter per month	$1.25
Next	40 kilowatt hours per meter per month	7 c per kilowatt hour
Next	150 kilowatt hours per meter per month	6 c per kilowatt hour
Next	800 kilowatt hours per meter per month	5 c per kilowatt hour
Next	2000 kilowatt hours per meter per month	4 c per kilowatt hour
All over	3000 kilowatt hours per meter per month	3½c per kilowatt hour

Minimum Charge.

(*a*) Where lighting service is supplied from a power bank of transformers or from distribution lines of 5000 volts or less the minimum is $1.25 per consumer per month.

(*b*) Where a separate transformer is required to be installed on distribution lines in excess of 5000 volts the minimum charge will be $2.50 per month for one consumer and $1.25 per month per consumer for two or more consumers.

Special Conditions.

(*a*) Single-phase motors of a capacity of 5 horsepower or less may receive service or may be combined with general lighting service under this schedule of rates at the option of the consumer; provided that, in case of combination service the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge as set forth above.

SCHEDULE L-4.

(Canceling Schedules L-6, L-7, L-8, L-9, L-10, L-11, NL-2 and SL-3.)

Street and Highway Lighting.

Applicable to service to street, highway and other public outdoor lighting installations, using bracket, mast arm, or center suspension construction, and supplied from overhead lines, where the company owns and maintains the entire equipment.

Territory.

Applicable to the entire territory *except* the city of San Francisco.

Rate. (A) Incandescent Lamp Service.

Multiple Lamps.

Lamp rating	Monthly charge per lamp: Midnight service	All-night service
25 watts	$0 90	$0 95
40 watts	1 15	1 25
50 watts	1 30	1 45
60 watts	1 55	1 70
75* watts	1 80	2 00
100* watts	2 20	2 50
150* watts	2 80	3 20
200* watts	3 10	3 75
300* watts	3 70	4 40
500* watts	4 30	5 40

Series Lamps.

60 candlepower	$1 20	$1 30
80 candlepower	1 50	1 65
100* candlepower	1 65	1 85
250* candlepower	2 80	3 20
400* candlepower	3 40	4 05
600* candlepower	3 90	4 80

*Includes a refractor. A diffusing globe, special highway reflector, or equivalent special reflector will be supplied on request. A deduction of $2.00 per year will be made for each lamp not equipped with refractor, diffusing globe or special reflector.

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Rate. (B) Arc Lamps—Luminous (Magnetite).

Pendent Type.	Monthly charge Midnight service	All-night service
4 ampere arcs	$3 80	$4 60
6.6 ampere arcs	4 20	5 00

Special Conditions.

(*a*) In case where consumer desires incandescent lamp service beyond midnight, but not all night, the additional charge for the service after midnight will be on the basis of 40 cents per month per rated kilowatt of lamp load connected for each hour burned after midnight.

(*b*) Rate (A) applies to installations of ten or more lamps.

Where service to any consumer involves an installation of less than ten lamps, the charges applicable will be those of Rate (A) increased by 10 per cent.

(*c*) The terms "All-night," "Moonlight" and "Midnight" service have the following meaning:

All-night service	4000 hours per year
Moonlight service	2240 hours per year
Midnight service	2000 hours per year

SCHEDULE C-1.

(Canceling Schedules Nos. C-1, NC-1, NC-2, SC-2.)

General Heating, Cooking and Combination Service.

Applicable to general domestic and commercial heating, cooking and/or water heating service, and to combination lighting with heating, cooking and/or water heating service.

Territory.

Entire territory served.

Rate.

(A) Heating, cooking and/or water heating service.

First 150 kilowatt hours per meter per month	3.5c per kilowatt hour
All over 150 kilowatt hours per meter per month	2.0c per kilowatt hour

(B) Combination lighting, with heating, cooking and/or water heating service.

(1) Applicable to residence, flats or apartments of 5 rooms or less.

First 30 kilowatt hours per meter per month	(x)
Next 150 kilowatt hours per meter per month	3.5c per kilowatt hour
All over 180 kilowatt hours per meter per month	2.0c per kilowatt hour

(2) Applicable to residence, flats, or apartments of 9 rooms or more.

First 50 kilowatt hours per meter per month	(xx)
Next 150 kilowatt hours per meter per month	3.5c per kilowatt hour
All over 200 kilowatt hours per meter per month	2.0c per kilowatt hour

(x) Charge for first 30 kilowatt hours of the effective lighting schedule.

(xx) Charge for first 50 kilowatt hours of the effective lighting schedule.

Minimum Charge.

First 7 kilowatts or less of heating, cooking and/or water heating capacity, $3 per month.

Over 7 kilowatts of heating, cooking and/or water heating capacity, 50c per kilowatt per month.

When the consumer signs a contract for service for a period of one year the minimum charges will be made accumulative for the service year. The minimum charges are payable in monthly installments until such time as the accumulative energy charges equal the annual minimum charge.

Special Conditions.

(*a*) Service will normally be 220-volt three-wire A.C.

(*b*) Minimum charges are based on the total active connected load of heating, cooking and water heating capacity which may be connected at any one time.

No additional minimum charge will be made for lighting service in case of combination service.

(*c*) Rate (B) applies only where the consumer installs and uses cooking, heating and/or water heating appliances other than lamp socket devices of at least 2 kilowatts capacity for residences, flats or apartments of 8 rooms or less and 5 kilowatts for residences, flats and apartments of 9 rooms or more.

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(*d*) Bath rooms, halls and cellars are not classified as rooms.
(*e*) Connected load will be taken as the name plate rating of all heating and king apparatus permanently connected and which may be connected at any one ie computed to the nearest one-tenth of a kilowatt and in no case less than 2 kilotts. All equipment assumed as operating at 100 per cent power factor.
(*f*) Single-phase power service (5 horsepower or less) may be combined under s schedule in which case each horsepower of connected load shall be considered iivalent to one kilowatt of connected load in determining the minimum charge.

SCHEDULE C-2.

(Cancels C-2, NC-2 and SC-3.)

nmercial Heating and Cooking.
Applicable to commercial heating, cooking and/or water heating. This rate is ional with Schedule C-1.

rritory.
Entire territory served.

te.
The rate will be that provided in Schedule (P-1). In determining the size of cks and minimum charges one kilowatt of active connected load will be considered one horsepower.

cial Conditions.
(1) Service will normally be 3-wire, alternating current 220 volt.
(2) Connected load will be taken as the name plate rating of all heating and king apparatus permanently connected and which may be connected at any one e computed to nearest one-tenth of a kilowatt and in no case less than 8 kilowatts. equipment assumed as operating at 100 per cent power factor.
(3) Single-phase power service (5 horsepower or less) may be combined under s schedule in which case each horsepower of connected load shall be considered ivalent to one kilowatt of connected load in determining the rate and minimum rge.

SCHEDULE C-3.

(Cancels Schedules C-3, C-4, P-14 and P-15.)

nbination Lighting and Power Service.
Applicable to combination lighting with cooking and/or power service where connected load or use of power and/or cooking load is at least 25 per cent of total load or use.

rritory.
Applicable within the city and county of San Francisco.

te.

Demand Charge.

First	25 kilowatts of monthly maximum demand_____	$1 60 per kilowatt
Next	50 kilowatts of monthly maximum demand_____	1 30 per kilowatt
All over	75 kilowatts of monthly maximum demand_____	1 00 per kilowatt

Energy Charge. (To be added to Demand Charge.)

First	1000 kilowatt hours per month_____	2.6 cents per kilowatt hour
Next	1500 kilowatt hours per month_____	2.1 cents per kilowatt hour
Next	3500 kilowatt hours per month_____	1.8 cents per kilowatt hour
All over	6000 kilowatt hours per month_____	1.6 cents per kilowatt hour

nimum Charge.
The minimum maximum demand charge will be not less than that based on 50 cent of the maximum demand created during the preceding eleven months and in case less than $16 per month.

cial Conditions.
(*a*) This schedule is exclusively a meter-rate, the maximum demand being meas-d by demand meters or indicators to be furnished and installed by the company on the consumer's premises adjacent to or combined with watt-hour meter or ters which measure the monthly energy consumption.
The maximum demand in any month will be the average number of kilowatts icated or recorded by the above meters in that 15-minute interval in which the

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consumption of electric energy hereunder is greater than in any other 15-minute interval in the month; provided, that in the case of hoists, elevators, welding machines, furnaces and other installations where the energy demand is intermittent, or subject to violent fluctuation, the company may base the consumer's maximum demand upon a 3-minute instead of a 15-minute interval.

Where the power installation does not exceed 50 horsepower the demand may be determined by instruments or test, as above, or at the option of the company, the demand may be assumed to be 100 per cent of the rated capacity of the largest motor installed plus 60 per cent of the rated capacity of all additional motors and other energy consuming devices installed.

SCHEDULE P-1.

(Canceling P-1, P-6, P-11, P-12, NP-1, NP-2, NP-3, NP-4, SP-1, SP-3, C-2, C-3, NC-2, NC-3, SC-3.)

General Power Service.

Applicable to general commercial and industrial power service and to commercial heating and cooking service and rectifier service. Alternating current service will be supplied at any standard voltage from 110 to 2200 volts as may be requested by the consumer. D.C. service may be obtained when available at the voltage as available.

Territory.

Entire territory served.

Rate. A. C. Service.

Horsepower of connected load	Rate per k.w.h. for monthly consumption of			
	First 50 k.w.h. per h.p.	Next 50 k.w.h. per h.p.	Next 150 k.w.h. per h.p.	All over 250 k.w.h. per h.p.
2-9	4.0¢	2.1¢	1.3¢	.9¢
10-24	3.6	2.0	1.2	.9
25-49	3.1	1.9	1.1	.8
50-99	2.6	1.7	1.1	.7½
100-249	2.3	1.5	1.0	.7
250-499	2.1	1.3	.9	.65
500-999	2.0	1.2	.9	.6
1000-2499	1.9	1.1	.9	.6
2500 and over	1.8	1.0	.9	.6

Minimum Charge.

First 50 horsepower of connected load $1 per horsepower, but in no case less than $2 per month.

All over 50 horsepower of connected load 65 cents per horsepower per month.

When the primary use of power is seasonal, the minimum charge may at the option of the consumer be made accumulative over a 12-month period.

Direct Current Service.

D.C. service when furnished will be rendered under the above rates and minimum charges increased by 10 per cent. D.C. service may only be obtained where available.

Special Conditions.

(*a*) *Voltage.* This schedule of rates will apply to service rendered at any standard voltage at the option of the consumer. All necessary transformers to obtain such voltage will be supplied, owned and maintained by the company.

(*b*) *Maximum Demand.* The above rates and minimum charges may at the option of the consumer be based on the horsepower of measured maximum demand instead of horsepower of connected load, providing the installation has a total connected capacity of at least 30 horsepower, in which case the horsepower of demand on which the rates and minimum charges will be based will not be less than 20 per cent of the connected load, but in no case shall the minimum be less than $50 per month.

The maximum demand in any month will be the average horsepower input (746 watts equivalent) indicated or recorded by instruments to be supplied, owned and maintained by the company and at the company's expense upon the consumer's premises adjacent to the watt hour meters, in the 15-minute interval in which the consumption of electric energy is more than in any other 15-minute interval in the month for installation of less than 750 horsepower and a 30-minute interval for

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:er size installation or at the option of the company the maximum demand may letermined by test.

n the case of hoists, elevators, welding machines, furnaces and other installations :re the energy demand is intermittent or subject to violent fluctuations, the pany may base the consumer's maximum demand upon a 5-minute interval ead of a 15 or 30-minute interval.

Demands for installations in excess of 250 horsepower of connected load occurring veen the hours of 11 p.m. and 6 a.m. of the following day will not be considered :omputing charges under this schedule.

c) *Optional Rate for Larger Installations.* Any consumer may obtain the rates a larger installation by guaranteeing the rates and minimm charges applicable he larger installation.

d) *Rectifier, Heating and Cooking Service.* Mercury arc rectifiers and com-cial heating and cooking installations may obtain service under this schedule. the purpose of determining rates and minimum charges, each kilowatt of con-:ed load will be considered as equivalent to one horsepower.

SCHEDULE P-2.

:rmittent Service.

Applicable to industrial service required intermittently throughout the year.

ritory.

Entire territory served.

e.

Demand Charge—

First 10 horsepower of connected load---- $5 00 per horsepower per year
All over 10 horsepower of connected load---- 3 50 per horsepower per year

Energy Charge—

The energy charges are the rates without the minimum charges as set forth under Schedule P-1.

cial Conditions.

A) Total charge—

The total charge is the sum of the demand and energy charges stated above.

B) Payment of demand charge—

The demand charge is payable in five equal installments during the first five months after the date service is first rendered. The consumers may select, if atisfactory to the company, other months in which to pay the demand charges.

C) Adjustment of bills—

At the end of each year's service period a consumer operating under this chedule and whose total charges for service for the past year would have mounted to less under Schedule P-1 will have the charges for this service djusted to the lower charges.

SCHEDULE P-3.

(Canceling P-2, P-9, P-10, NP-5, NP-6, NP-7, SP-3.)

icultural Power Service.

Applicable to general agricultural and reclamation service, including pumping, choppers, milking machines, heating for incubators, brooders, poultry house ting and general farm use, excluding domestic cooking and lighting service.

ritory.

Entire territory served.

e A.

Energy Charge In Addition to the Demand Charge.

Size of installation, horse-power	Annual demand charge per h.p.	Rate per k.w.h. for consumptions per h.p. per yr. of			
		First 1000 k.w.h.	Next 1000 k.w.h.	Next 1000 k.w.h.	All over 3000 k.w.h.
4	$6 60*	1.6¢	1.2¢	.9¢	.7¢
14	6 00	1.4	1.1	.8	.7
49	5 40	1.2	1.0	.8	.7
99	4 50	1.1	.9	.75	.7
249	3 90	1.1	.9	.75	.7
499	3 75	1.05	.85	.75	.7
999	3 60	1.00	.85	.75	.7
2499	3 30	1.00	.85	.75	.7
and over	3 00	1.00	.85	.75	.7

*In no case will the total annual demand be less than $13.20.

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Rate B. Optional rate.

Any consumer may select at his option the following rate instead of the demand and energy rate set forth above:

Horsepower of connected load	Annual minimum charge per h.p.	Rate per k.w.h. for consumptions of				
		First 300 k.w.h. per h.p. per yr.	Next 700 k.w.h. per h.p. per yr.	Next 1000 k.w.h. per h.p. per yr.	Next 1000 k.w.h. per h.p. per yr.	All over 3000
2-4	$9 00*	3.8¢	1.6¢	1.2¢	.9¢	.7¢
5-14	8 00	3.4	1.4	1.1	.8	.7
15-49	7 50	3.0	1.2	1.0	.8	.7
50-99	7 00	2.6	1.1	.9	.75	.7
100-249	6 75	2.4	1.1	.9	.75	.7
250-499	6 50	2.3	1.05	.85	.75	.7
500-999	6 25	2.2	1.00	.85	.75	.7
1000-2499	6 00	2.1	1.00	.85	.75	.7
2500 and over	6 00	2.0	1.00	.85	.75	.7

*In no case will the total minimum charge be less than $27.00 per year.

Special Conditions.

(*a*) Demand and minimum charges—

The annual demand charges (or minimum charges) of the rates set forth above are due and payable in six equal monthly installments with bills for energy used during the months of May to October, inclusive.

(*b*) Energy charges—

The energy charges of the rates set forth above shall apply to service rendered based on all regular meter readings taken on and after May 1 of any year and before May 1 of the succeeding year.

(*c*) Service commencing (or discontinued) after April 1—

Any consumer whose service begins (or is discontinued) at a later date than April 1 of any year will be billed in accordance with the above rates modified as follows:

(1) Service commencing (or discontinued) on and after April 1, but on or before September 30.

(*a*) The demand charge (or minimum charge) is to be applicable only during that period from date service is first taken to September 30 at the rate of one-sixth of the annual demand charge (or minimum charge) per month.

(*b*) The sizes of the energy blocks of the rates are to be determined by multiplying the sizes of the blocks given in the rates by the following factor according to the month in which service commences (or is discontinued):

Month in which service commences or is discontinued	Factor	
	New service	Discontinued service
April	1.0	.1
May	.9	.2
June	.8	.3
July	.7	.4
August	.6	.5
September	.5	.6

(2) Service commencing (or discontinued) on and after October 1, but prior to April 1 of the following year.

The optional rate (B) only (but with no minimum charge) will apply to such service up to April 1 of the following year, however, on April 1 the consumer then will have the option of selecting either rate (A) or of continuing with the optional rate (B). The charges for this service will be determined as follows:

(*a*) No minimum charge to apply.

(*b*) The sizes of the energy blocks of the optional rate (B) are to be determined by the sizes as given in the optional rate (B) by the following factors according to the month in which service commences (or is discontinued):

Month in which service commences or is discontinued	Factor	
	New service	Discontinued service
October	.4	.7
November	.3	.8
December	.2	.9
January	.1	1.0
February	.1	1.0
March	.1	1.0

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) Agricultural season—

Meters on all agricultural services will be read by the company between April 1 d April 10 of each year beginning with 1924, and the above rates will apply for ıt year for service rendered after that date on which the meters are so read ring the ten-day period.

) Date of first demand or minimum payment—

The first payment of the annual demand charge (or annual minimum charge) ll be due and payable upon presentation of the bill for service rendered based regular meter readings taken on and after May 1.

) Increase or decrease of load—

Consumers permanently increasing or decreasing their connected load will have ir rates for the increased or decreased load adjusted in accordance with Special ndition (*c*). Discontinued service is limited to installations permanently itting and does not apply to installations shutting down for a few months or the balance of the season at the end of which time service will again be desired.

) Guaranteeing rates for larger size installation—

Any consumer may obtain the rate for a larger installation by guaranteeing the es and demand charge (or minimum charge) of that larger installation.

) Voltage—

When the company installs, owns and maintains the transformers, the above es apply to service rendered at 110, 220, or 440 volts under provisions of Rule d Regulation No. 2, at the option of the consumer and the energy will be tered on the secondary (10w side) of the transformer.

When the consumer owns the transformers, service will be rendered at the tribution line voltage available and the service will be measured on the primary igh) side of the transformer.

) Adjustment of bills—

Consumers operating on either Rate (A) or Rate (B) whose use in any one ır is less than 300 kilowatt hours per horsepower and who are receiving service der the higher rate, will have their bills adjusted at the end of the agricultural ason to the lower of the two rates.

) Credit for ownership of transformer by consumer—

Consumers operating installations having a connected load of 50 horsepower over and owning the transformers supplying such installations will be allowed following credits:

Size of installation, horsepower	Annual credit of connected load
50–99	$1 00 per horsepower
100–249	90 per horsepower
250–499	80 per horsepower
500–999	70 per horsepower
1,000–2,499	60 per horsepower
2,500 and over	50 per horsepower

) Selection of schedule—

The company will normally render agricultural service under Rate (A) unless consumer advises the company to apply the optional rate (B).

) Contracts—

The company may require a contract for service under this schedule for a iod not to exceed three years when service is first rendered and thereafter from ır to year.

) Rates effective from February 20, to May 1, 1923—

Service rendered, based on regular meter readings taken on or after Febru- 20, 1923, and prior to May 1, 1923, will be billed for in accordance with the ergy charges (but with no minimum or demand charges) of the above rates l will be included in the 1923 season.

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SCHEDULE P-4.

(Canceling P-2 and P-8.)

Reclamation Power Service.

Applicable to general reclamation service. This rate for reclamation service is optional with schedule P-3.

Territory.

Entire territory served.

Rate (A).

Rates Applicable to That Portion of the Connected Load Operated.

Size of total installation, horsepower	Annual demand charge per horsepower		Energy charge in addition to the demand charge; rate per k.w.h. for consumptions per h.p. per year of			
	Company owns transformers	Consumer owns transformers	First 1000 k.w.h.	Next 1000 k.w.h.	Next 1000 k.w.h.	All over 3000 k.w.h.
50-99	$4 50	$3 50	1.1¢	.9¢	.75¢	.7¢
100-249	3 90	3 00	1.1	.9	.75	.7
250-499	3 75	2 95	1.05	.85	.75	.7
500-999	3 60	2 90	1.00	.85	.75	.7
1000-2499	3 30	2 70	1.00	.85	.75	.7
2500 and over	3 00	2 50	1.00	.85	.75	.7

Rate (B).

Rates Applicable to That Portion of the Connected Load Held Only as a Standby, but not Actually Operated.

Size of total installation, horsepower	Annual demand charge per horsepower		
	Company owns transformers	Consumer owns transformers	
50-99	$1 80	$0 80	If this additional installation is operated and any energy used, then the full demand and energy rates of Rate (A) will apply to this load for 12 months period ending on the following December 31st.
100-249	1 70	80	
250-499	1 60	80	
500-999	1 50	80	
1000-2499	1 40	80	
2500 and over	1 30	80	

Special Conditions.

(*a*) Demand charges—

The demand charges of rates (A) and (B) are due and payable in 12 equal monthly installments during the year from January 1st to December 31st of the same year.

(*b*) Energy charges—

The energy rates of Rate (A) shall apply to service rendered on and after January 1 of any year and before December 31 of the same year.

(*c*) Service commencing (or discontinued) after January 1—

Any consumer whose service begins (or is discontinued) at a later date than January 1 of any year will be billed in accordance with the above rates modified as follows:

Demand charge—

(1) The demand charges of rates (A) and (B) are applicable only during that period from date service is first taken to December 31 of the same year at the rate of one-twelfth of the annual demand charge per month.

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(2) The sizes of the energy blocks of the Rate (A) are to be determined by multiplying the sizes of the blocks given in the Rate (A) by the following factor, according to the month in which service commences or is discontinued.

Month in which service commences or is discontinued	Factor	
	New service	Discontinued service
January	1.0	.1
February	.9	.2
March	.8	.3
April	.7	.4
May	.6	.5
June	.5	.6
July	.4	.7
August	.3	.8
September	.2	.9
October	.1	1.0
November	.1	1.0
December	.1	1.0

(*d*) Season—

Meters on agricultural and reclamation service operating under this schedule will be read by the company between January 1st and January 10th of each year, beginning with 1924, and the above rates will apply for the year for service rendered after that date.

(*e*) Date of first payment of demand charge—

The first payment of the annual demand charge will be due and payable upon presentation of the bill for service rendered, based on regular meter readings taken on and after February 1st.

(*f*) Increase or decrease of load—

Consumers permanently increasing or decreasing their connected load will have their rates for the increased or decreased load adjusted in accordance with Special Condition (*c*). Discontinued service is limited to installations permanently quitting and does not apply to installations shutting down for a few months or for the balance of the season at the end of which time service will again be desired.

(*g*) Guaranteeing rates for larger size installations—

Any consumer may obtain the rate for a larger installation by guaranteeing the rate and demand charge of that larger installation.

(*h*) Voltage—

When the company installs, owns and maintains the transformers, the above rates apply to service rendered at 110, 220 or 440 volts under the provisions of Rule and Regulation No. 2 at the option of the consumer.

When the consumer owns the transformers, service will be rendered at the distribution line voltage available.

(*i*) Measurement of service—

When the company owns the transformers the energy will be measured on the secondary (low) side of the transformers.

When the consumer owns the transformer the energy will be measured on the primary (high) side of the transformers.

The unit energy rates as given above in Rate (A) apply whether the company or consumer owns the transformers.

(*j*) Disconnecting switch—

The above rates contemplate that the service will be disconnected from the main line by the consumer during periods when the installation is not in operation, provided the company installs a suitable disconnecting switch on the primary (high) side of the transformer for such purpose.

Such a disconnecting switch will be owned, maintained and properly installed by the company together with necessary means and protection for its operation.

(*k*) Contracts—

The company may require a contract for service under this schedule for a period not to exceed three years when service is first rendered and thereafter from year to year.

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SCHEDULE P-5.

(Canceling P-3, P-6, NP-8, NP-9, NP-10, NP-11.)

Wholesale Power Service.

Applicable to general power service supplied at a standard voltage of 2200 volts or over.

Territory.

Entire territory served.

Rate (A).

Service at 2200 volts up to and including 25,000 volts.

Demand Charge.

First	200 kilowatts or less of maximum demand	$300 per month
Next	300 kilowatts of maximum demand	$1 00 per kilowatt per month
Next	500 kilowatts of maximum demand	75 per kilowatt per month
All over	1000 kilowatts of maximum demand	60 per kilowatt per month

Energy Charge.

First	150 kilowatt hours per kilowatt per month	.80¢ per kilowatt hour
Next	250 kilowatt hours per kilowatt per month	.60¢ per kilowatt hour
All over	400 kilowatt hours per kilowatt per month	.55¢ per kilowatt hour

Rate (B).

Service at line voltages in excess of 25,000 volts.

The rate is the same as that set forth under Rate (A) above, decreased by 10 per cent.

Special Conditions.

(*a*) Total charge—

The total charge is the sum of the demand and energy charges given above.

(*b*) Voltage—

Service under Rate (A) will be supplied by the company at standard voltages of 2200 volts or more up to and including 25,000 volts as requested by consumer.

Service under Rate (B) will be supplied by the company from standard line voltages as available above 25,000 volts.

(*c*) Demand—

The maximum demand in any month will be the average kilowatt delivery of the thirty-minute interval in which the consumption of electric energy is greater than in any other thirty-minute interval in the month. The maximum demand on which the demand charge and energy block will be based will not be less than 50 per cent of the demand occurring during the eleven preceding months.

Any demand occurring between the hours of 11.00 p.m. and 6.00 a.m. of the following day will not be considered in determining the above demand charge.

(*d*) All voltages referred to in this schedule are nominal voltages.

SCHEDULE P-6.

(Canceling P-7, NP-8 and NP-9.)

Resale Power Service.

Applicable to electric service to other electric utilities and to municipalities for distribution and resale. Service to be supplied at standard voltages of 2200 volts or over.

Territory.

Entire territory served.

Rate (A).

Service at 2200 volts up to and including lines of 25,000 volts.

(1) *Demand Charge.*

First	50 kilowatts or less of maximum demand,	$90 00 per month
Next	150 kilowatts of maximum demand	$1 50 per kilowatt per month
Next	300 kilowatts of maximum demand	1 00 per kilowatt per month
Next	500 kilowatts of maximum demand	75 per kilowatt per month
All over	1000 kilowatts of maximum demand	60 per kilowatt per month

plus—

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(2) *Energy Charge.*

First	150 kilowatt hours per kilowatt per month---	.80¢ per kilowatt hour
Next	250 kilowatt hours per kilowatt per month---	.60¢ per kilowatt hour
All over	400 kilowatt hours per kilowatt per month---	.55¢ per kilowatt hour

e (B).

Service at line voltages in excess of 25,000 volts.

1) The rate is the same as that set forth under Rate (A) above, decreased by 10 cent.

counts.

The above rates (A) and (B) are subject to a special discount allowed to assist leveloping rural territory equal to 10 per cent times the ratio of the purchasing panies kilowatt hour sales for service rendered in rural (unincorporated) terri- to the total kilowatt hour sales. The discount to be applied for any calendar will be based on the previous year's sales of the resale utility.

cial Conditions.

a) Total charge—

The total charge is the sum of the demand and energy charges given above.

b) Voltage—

Service under Rate (A) will be supplied by the company at standard voltages f 2200 volts or more up to and including 25 kilovolt lines at the consumer's option.

Service under Rate (B) will be supplied by the company at its standard line oltages as available above 25 kilovolts.

c) Demand—

The maximum demand in any month will be the average kilowatt delivery of ie thirty-minute interval in which the consumption of electric energy is greater ian in any other thirty-minute interval in the month. The maximum demand a which the demand charge and energy block will be based will not be less than 0 per cent of the demand occurring during the eleven preceding months.

Any demand occurring during the hours of 11.00 p.m. and 6.00 a.m. of the llowing day will not be considered in determining the above demand charge.

d) Combination of points of delivery—

Where service is rendered to a system at two or more points acceptable to the mpany the maximum demand on which the charges will be based will be taken the maximum simultaneous demand. The blocks of the demand charges will multiplied by the number of points at which service is taken.

) Optional rate—

Service of less than 50 kilowatt demand, consumer may take service under P-1.

SCHEDULE P-7.

(Cancels Schedule P-16.)

d-by Auxiliary Service.

pplicable to stand-by or breakdown service supplied to consumers whose premises egularly supplied with light or power from a privately owned source of supply; ixiliary service supplied to consumers who at times take service (by means of a le-throw switch) from another public service company; and to other electric ce where the company must stand ready at all times to supply electricity for or power, but where the use of electric service is not of a usual, regular or nuous character. The maximum load served under this schedule is 1000 atts.

itory.

pplicable to the entire territory.

mum Charge.

or stand-by or auxiliary service rendered under this schedule the minimum charge ilowatt of maximum load, either light or power, which the company agrees to l ready to supply to the consumer will be:

First	20 kilowatts of maximum load---------	$2 00	per kilowatt per month
Next	80 kilowatts of maximum load---------	1 50	per kilowatt per month
All over	100 kilowatts of maximum load---------	1 25	per kilowatt per month

no case, however, will the minimum charge be less than $20 per month per ce.

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In case the consumer desires the company to stand ready to supply the entire connected load of the consumer's plant, or an isolated part thereof, then such maximum load will be estimated by the company, based on tests and other information available. In case the consumer desires the company to stand ready to supply a number of kilowatts less than the maximum demand of the entire consumer's plant, or an isolated part thereof, then the consumer shall, at his own expense, furnish and install a suitable circuit breaker enclosed in a steel box equipped with lock, all to be approved by and under the sole control of the company and the adjustment and operation of said circuit breaker to be in no way interfered with by the consumer. This circuit breaker shall be set to break the connection with the company's service in case the consumer's maximum demand shall at any time materially exceed the number of kilowatts which the company is obligated to stand ready to supply. If said circuit breaker should open, due to excess of consumer's demand above the number of kilowatts agreed on, the company will renew the connection upon due notice.

This schedule will be used in connection with such other rate schedule, applicable to the class of business if continuously supplied, as the consumer may select. The rate specified herein will, except as provided below, replace the minimum charge specified in such appropriate schedule, but the kilowatt-hour charge, demand charge, and all other conditions specified in said rate schedule (except nonapplicabiilty to stand-by service) will remain unchanged.

Where the rate schedule applicable carries a higher minimum charge than the minimum specified herein, the former will be substituted for that provided herein.

Metering and billing for stand-by service will be kept separate and distinct from the metering and billing for regular exclusive service applied at the same location.

Special Conditions.

(1) This schedule will only apply where the consumer will sign a contract for at least one year.

SCHEDULE P-8.

(Cancels Schedule P-13.)

Service to X-Ray Apparatus.

Territory.

Applicable to entire territory served.

Rate.

Where X-ray apparatus is separately served it shall be classed as power equipment and service will be rendered in accordance with the rates for general power service applying in the various territories except that the horsepower (or kilowatt) minimum provision of any such rate shall be modified as provided below.

At the consumer's option, service to X-ray apparatus may be rendered at the lighting rate, in which case it may be combined (where physically practicable) on the same meter with regular lighting service; provided that the minimum provisions specified below will apply in all cases.

Minimum Charge.

Where the company finds it necessary to install any special equipment, other than the customary meter and service, in order to render service to an X-ray apparatus, the minimum monthly charge shall be 50 cents per kilowatt of X-ray capacity, or 50 cents per kilowatt of special transformer capacity required to serve same.

Where service to an X-ray apparatus does not require the installation of any special equipment, no horsepower (or kilowatt) minimum shall apply, and only the meter mimimum specified in the rate used need be considered; provided that in no case shall the minimum be less than 90 cents per month per meter.

SCHEDULE P-9.

Railway Service.

Applicable to service to electric railways.

Territory.

Applies to entire territory served.

Rate.

A.C. service	$0 85 per kilowatt hour
D.C. service	1 15 per kilowatt hour

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nimum Charge.
The above rates assume an average monthly load factor of at least 35 per cent. the average monthly load factor is less than 35 per cent then the minimum charge that month will be an amount equal to that resulting from applying the above e to the number of kilowatt hours necessary to give a 35 per cent load factor, based the system simultaneous demand for the service rendered.

ecial Conditions.
(*a*) The maximum demand in any month will be the average kilowatt delivery the thirty-minute interval in which the consumption of electric energy is greater in in any other thirty-minute interval in the month.
(*b*) If service is rendered at more than one point the demands will be combined, cept that D.C. and A.C. service will not be combined.
(*c*) D.C. service may be obtained by the consumer only when available or covered contract.

Decision No. 11464.

IN THE MATTER OF THE APPLICATION OF H. P. HARRALSON THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF A TELEPHONE LINE FROM DINUBA TO GENERAL GRANT NATIONAL PARK.

Application No. 7627.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS REEDLEY - SQUAW VALLEY - DUNLAP - PINEHURST - CEDARBROOK AND CEDARS LINE TO GENERAL GRANT NATIONAL PARK.

Application No. 7694.
Decided January 3, 1923.

---

arnsworth, McClure and Burke, for Applicant Harralson.
. *Terkel*, Manager, for Reedley Telephone Company.
. *L. McNally* and *J. H. Newman*, for the Pacific Telephone and Telegraph Company.
. *J. Lushbaugh*, for Fresno County Chamber of Commerce.

OWELL, *Commissioner.*

OPINION AND ORDER ON REHEARING.

An order was made in this proceeding on May 29, 1922, Decision No. 10516, declaring that public convenience and necessity do not equire construction by H. P. Harralson of a telephone line between Dinuba and General Grant National Park and his application for a ertificate of public convenience and necessity was denied. The application of Reedley Telephone Company for permission to extend its telephone line to Wilsonia and to the administration headquarters in General Grant National Park and a certificate of public convenience and necessity for such extension was granted in that decision.

Upon application for a rehearing the Commission, on June 8, 1922, made its order reopening these proceedings and a public hearing was held on September 27, 1922, for the purpose of determining whether or not the order in Decision No. 10516, hereinabove referred to, should be rescinded, altered or amended in any particular.

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After full consideration of the evidence introduced at the rehear it appears that by reason of a change in conditions and circumstan between the date of the original order and the date of the rehear public convenience and necessity will best be served by the grant of the application of H. P. Harralson and by a denial of the appl tion of the Reedley Telephone Company. A larger number of pe will be served with telephone service and a more satisfactory ser will be rendered, in my opinion, by this disposition of the matter. granting of the Harralson application, rather than the application the Reedley Telephone Company, will also better serve the needs demands for telephone service, particularly toll service, of Gene Grant National Park. To make available for this National Park best possible telephone service is one of the principal issues in this p ceeding. It is also my conclusion that the telephone line proposed to constructed by H. P. Harralson, which is a line of standard teleph construction, will be superior in construction and service to the infe type of construction proposed by the Reedley Telephone Compa I suggest the following order:

ORDER.

A rehearing having been granted in this proceeding pursuant application filed June 8, 1922, a further hearing having been h additional evidence received, and the matter submitted;

It is hereby ordered, that the order heretofore made herein May 29, 1922, in Decision No. 10516, be and the same is hereby vacat

It is further ordered, that the application of Reedley Telephone C pany be and it is hereby denied and the Railroad Commission her declares that public convenience and necessity do not require the ext sion of its present line to General Grant National Park.

The Railroad Commission hereby further declares, that public con nience and necessity require the construction and operation by H. Harralson of a telephone line between Dinuba and General Gr National Park, as described in the above entitled application and the application for rehearing herein.

It is further ordered, that the application of H. P. Harralson be it is hereby granted, provided that said H. P. Harralson, within twe (20) days from the date of this order, shall file with the Commissio stipulation showing the approximate date of commencement of c struction of the proposed telephone line and the date of its completi and further, a stipulation to the effect that the telehone line will be operation on the stipulated date of completion.

The effective date of this order is hereby fixed and designated January 23, 1923.

Dated at San Francisco, California, this third day of January, 19

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DECISION No. 11465.

'HE MATTER OF THE APPLICATION OF NATOMAS WATER COMPANY, A CORPORATION, FOR THE ASCERTAINMENT BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA OF THE VALUE OF ITS PROPERTY, AND FOR AN ORDER OF THE RAILROAD COMMISSION FIXING A JUST AND REASONABLE SCHEDULE OF RATES AND CHARGES FOR THE PUBLIC SERVICES RENDERED BY THE SAID CORPORATION.

Application No. 6975.
Decided January 3, 1923.

es W. Slack and *Edgar T. Zook*, by *Edgar T. Zook*, for applicant.
n and Devlin, by *A. J. Ashen*, for Creston Land Company, and Earl Fruit Company, Protestants.
t and Atkinson and *W. A. Sitton*, by *Frank F. Atkinson* and *W. A. Sitton*, for water users on the Valley Lateral and Mormon Island Lateral, Protestants.

IN, *Commissioner*.

OPINION.

.e Natomas Water Company, applicant in the above entitled matter, :orporation engaged in the business of supplying water as a public :y to consumers in the town of Folsom for domestic purposes and r for irrigation use in both El Dorado and Sacramento counties. ldition to this, water is supplied to the Natomas Company of Cali- of California for the operation of gold dredges.

e Natomas Water Company is owned and controlled by the mas Company of California, a corporation, whose principal busi- is the operation of dredges for the mining of gold in Sacramento ıty.

e applicant in this matter alleges that the income received for the ce rendered by it is wholly inadequate, and does not yield a fair 'n upon the value of its properties; that it is impossible to further :e its operating expenses; and that the rates now charged for r service are far below the rates received by any other public ce corporation of the same character in northern or central Cali- a. The Commission is therefore asked to ascertain the value of ıpplicant's property and establish such rates as may be just and able for the service rendered.

blic hearings in this matter were held in Sacramento and San cisco before Commissioner Martin. All interested parties were ı an opportunity to be present and be heard.

e main canal of this system was originally constructed for mining oses by the Natoma Water and Mining Company, which built a ı and earth-filled dam and made the first appropriation of water the South Fork of the American River at a point about two miles : the former mining town of Salmon Falls in El Dorado County.

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Fifteen miles of ditches were completed and in operation by the en of the year 1853.

The owners of the original system incorporated in 1853 under th name of the Natoma Water and Mining Company, and subsequentl acquired title to several thousand acres of land, approximately 11,00 acres of which were part of the Rancho de los Americanos. The stock holders of the above company organized the Natoma Vineyard Com pany, which was incorporated September 6, 1888.

By deed, dated May 15, 1890, recorded October 1, 1890, the Natom Water and Mining Company transferred to the Natoma Vineyard Com pany certain lands which were described as lying south of Alder Cree in Sacramento County. These lands were nonoperative as far as th water system was concerned. However, the title to the canal systen water rights and remaining lands of the Natoma Water and Minin Company was not transferred to the Natoma Vineyard Company unt October 31, 1893, the date of the deed, which was recorded November 1 1893.

The interests of the Natoma Vineyard Company in this system wer acquired in 1907 by the Natoma Development Company, which, i December, 1908, transferred its holdings to the Natomas Consolidate of California, a corporation now known as the Natomas Company o California. On March 21, 1912, the water system, together with a appurtenant and necessary lands, structures, rights of way and wate rights, was transferred to the Natomas Water Company, a corporatio formed by the Natomas Consolidated of California for the express pur pose of holding and operating its water properties.

The Natomas Water Company claims the right to divert sixty second feet of water from the South Fork of the American River.

Water is now diverted from the South Fork of the American Rive by a dam of granite rubble 290 feet in length, built in 1868. The mai canal was enlarged in 1913, has a capacity of sixty cubic feet of wate per second and is slightly over 18 miles long, 11,800 feet of which ha been concrete lined. The Valley Lateral is 8.4 miles long. The Mormo Island Lateral, the Folsom Lateral and the remaining distributio ditches make a system comprising approximately 37 miles of canals.

The principal water supply for the town of Folsom is chlorinate before entering the concrete storage reservoir. From here the wate is transmitted through a 12-inch machine-banded redwood stave pip to the distribution system, which consists of approximately 21,000 fee of mains varying from three-quarters of an inch to 12 inches i diameter.

The storage facilities provided on this system are very limited Willow Hill reservoir, of approximately 100 acre-feet storage capacit and the Buffalo reservoir with a capacity of 104 acre-feet are availabl

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irrigation; Folsom reservoirs Nos. 1, 2 and 3 are used for the estic supply for the town of Folsom and vicinity. Folsom reservoir 3 is concrete lined and has a capacity of 1,600,000 gallons. The r two reservoirs are used now only to provide auxiliary or emerg- storage.

ll distribution on this system, whether for irrigation, mining or estic use, is by gravity.

n December 31, 1921, there were 250 active services in the town of som, which has a population of about 1000 people. In 1920 there e 1449 acres of land irrigated on this system and 1415 acres in 1921. ccording to the best information available, the Natomas Company California in 1921 used for mining and other purposes 293,915 er's inch days, and 329,342 miner's inch days in 1920.

he present rates charged by this utility for water service have been effect for a great many years and have never been fixed by the lroad Commission.

hese rates as on file with this Commission are as follows:

or Domestic and Other Service in Town of Folsom and at Natoma, California.

	Per year
ellings, house and one lot	$12 00
elling house and two lots, in garden or lawn	15 00
res, saloons, boarding houses, blacksmith shops, private stables, Chinese laundries, offices, restaurants, water wheels, pasture (each tap) and cemeteries*	12 00
ery stables and ice factories	60 00
ighterhouses	24 00
cher shops, where refrigerator is maintained, and hotels	36 00
ter tank, water supplied to Southern Pacific Company for locomotive, station and grounds	372 00
nsformer station (special), Western Gas and Electric Company	180 00
imming tanks (special)	84 00
dens, according to number of lots, at rate per lot of	12 00

Ordinary charge for cemeteries $12 per year; exceptions to this rule are as fols: Special rates were made owing to the laying of a supply pipe from main by following named organizations at their expense:

	Per year
ish cemetery	$6 00
l Fellows cemetery	10 00
sonic cemetery	10 00

IRRIGATION.

acre per year for bearing orchards, vineyards and alfalfa	$5 00
acre per year for non-bearing orchards and vineyards	3 00
ter consumed by Natomas Consolidated of California in orchard and vineyard and rock crushing enterprises, per miner's inch 24 hours	0 07

DREDGE MINING.

r gold dredges of Natomas Consolidated of California, per miner's inch for 24 hours at rate of 7 cents.

e miner's inch used as a unit of measurement on this system is equivalent to 1/50 of one cubic foot per second.

A report was submitted on behalf of the applicant by George S. ckerson, civil and hydraulic engineer, in which he estimated the production cost of the physical properties of this system, based upon

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the cost prices of the year 1919, to be $526,995 and gave the depreciation annuity as $2,113 and $1,586, computed by the sinking fund method at 4 per cent and 6 per cent, respectively. This report did not include an estimate of the reproduction cost less accrued depreciation. Applicant conceded that the above report, based upon the prices of 1919 reflected approximately the peak of the post-war inflation of labor and material costs. No other appraisement of the entire system was presented on behalf of applicant.

A report, compiled by Messrs. R. S. Melvin and M. R. MacKall of the Commission's engineering staff and submitted by the latter, shows an appraisement of this system, based upon the estimated original cost amounting to $300,451 as of November 1, 1921, a replacement annuity of $1,138, computed by the 6 per cent sinking fund method, and recommending as reasonable the sum of $15,220 for the annual maintenance and operating expenses.

It is the desire of the applicant to purchase from the Natomas Company of California the Alder Creek dam and the Alder Creek ditch. The Commission is asked to determine the service value of this property to the water system and to include the amount so determined in the rate base for the purposes of this proceeding. This ditch is being used at present by the applicant to deliver irrigation water to the American River Canal of the Natomas Mutual Water Company and thence to the valley lateral. Testimony was submitted to the effect that the Natomas Consolidated of California constructed the Alder Creek dam several years ago, at a cost of approximately $21,000, for the purpose of impounding the muddy water, or tailings, from the gold dredges; also that the Alder Creek ditch was enlarged and lined with concrete in 1921 by the Natomas Company of California at a cost of $7,810.

It appears, from the evidence, that as far as practical value goes, the advantages afforded by the Alder Creek dam are so slight that the Commission would be unwarranted at this time in considering it as a necessary and vital adjunct to the water system. It further appears that the Natomas Company of California, in dredging out a considerable portion of the Buffalo Creek channel, destroyed applicant's sole means of delivering water to the valley lateral through its own ditch system, making it now necessary to use the Alder Creek ditch and the American River canal of the Natomas Mutual Water Company, in order to serve its patrons on the lower end of the system. It would seem that it is incumbent upon the Natomas Company of California, at its own expense, to restore to the applicant a canal, ditch or other method of conveying water to the valley lateral, having a capacity equivalent to that which it has destroyed. As this obligation has not been satisfactorily discharged it would be improper for the applicant to add to it

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ens, and thereby add to the burden borne by its consumers, by the
ıase of the Alder Creek ditch and dam.
e applicant submitted an estimate of the future annual operation
ıses amounting to $16,798. The principal differences between this
ate and the one presented by the engineers of the Commission lie in
llowances for ditch cleaning and the painting of flumes.
om the information presented, it is believed that the additional
nt claimed by applicant for ditch cleaning is not warranted; how-
the sum of $580 for the painting of flumes is not unreasonable,
vill be allowed.
careful consideration of the evidence leads to the conclusion that
00 is a reasonable amount for the annual operating and main-
ce expenses, and that the sum of $300,451 with a corresponding
cement annuity of $1,138, represents the fair and reasonable
tment in used and useful properties in this system for the purposes
is proceeding.
llowing is a summary of the annual charges, based upon the figures
ıed above:

ı at 8 per cent on $300,451	$24,036 00
cement annuity	1,138 00
enance and operating expense	15,800 00
Total	$40,974 00

e revenues for 1920 were $35,059 and for 1921 they were $32,554.
om the above it is apparent that the applicant is entitled to an
ıse in revenues.
the past the applicant has consistently pursued a policy of denying
cations for the extension of irrigation service to new consumers or
shing water for additional acreage to old consumers. Irrigation
e being on a flat rate basis, there are no accurate water measure-
s available to determine the actual use of water. Measurements of
used for dredge mining are equally unreliable. No doubt there
een wasteful and unnecessary use of water on this system, as is
when flat rates are charged. The demand for water in the terri-
served by the applicant has increased to such an extent that
rvation of the supply is urgently needed. This can be accom-
ed to the best advantage of all concerned by the adoption of a
ıred rate for all irrigation, mining and similar service. The sale
igation water on a measured basis will practically eliminate care-
ss and waste in distribution and use. Further economies in the
f water may be effected by the adoption of reasonable and necessary
and regulations governing irrigation and all other uses, requiring
g other things the delivery of irrigation water to consumers upon
r system of rotation and also requiring the continuous use of

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water both day and night during the period of delivery, when condition demand.

The saving gained by the methods outlined above should make available sufficient water to accommodate all reasonable requirements including a certain amount of new business, and a campaign to secure additional consumers and additional acreage, to make use of the additional water made available—rather than the discouragement thereof as in the past—unquestionably will be productive of increased revenues.

Considerable controversy developed during the hearings in this matter involving the status of certain contracts under which the majority of the water users located on the valley lateral have been receiving water since 1893 and 1894. It appears that there are ten irrigation consumers who hold contracts made with the Natoma Vineyard Company providing (among other things) that water shall be furnished in such quantities as the irrigationists desire at any and all seasons of the year for a fixed sum of $5 per acre per year for bearing orchards, vineyards and other crops, and $3 per acre per year for nonbearing orchards and vineyards. These consumers claim that their contracts are still in force and that as to them the company is not a public utility and the rates fixed by their contracts can not be changed.

This contention can not be upheld. The evidence is clear that the canal system and the water originally appropriated has been from the beginning impressed with a public use. When the Natoma Vineyard Company acquired the system from Natoma Water and Mining Company on November 11, 1893, it acquired a public utility system. It could not change the character of that system. Nor could it, by contracts made either before or after it acquired the system, carve private rights out of the public use to which the system had been devoted. These contracts, in so far as they purport to grant special rights in the public utility water system acquired by the Natoma Vineyard Company must be deemed to have been made subject to the power of the state to modify or revise in the interest of the public.

Southern Pacific Co. vs. *Spring Valley Water Co.*, 173 Cal. 291.
Law vs. *Railroad Commission*, 184 Cal. 739.

The ten contract holders in 1921 used approximately 59 per cent of the entire irrigation water used on this system. It is clear from the evidence that a uniform and nondiscriminatory rate which will produce a fair return to the utiilty can not be established unless the rates fixed by these contracts are disregarded. It is thought that the public interest requires that this be done. The order will therefore provide for a uniform rate for all irrigation consumers, irrespective of prior contracts.

In order to deliver gravity water to the valley lateral, present conditions render it necessary for the applicant to use jointly the American

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er canal with the Natomas Mutual Water Company, another subary of the Natomas Consolidated Company of California, an irrigacompany which obtains its supply of water by pumping from the erican River. The Commission must look with disfavor upon the it and unregulated use of the same irrigation canal by two companies ring water, which, from the different nature of their sources of ply, vary widely in the cost of production and delivery. The conlation of such unsatisfactory arrangements is bound to result, sooner ater, in serious complications. It is, therefore, the desire of the mmission that the applicant eliminate any possible difficulties that arise from this source in the future by providing, as soon as conons may permit, a system of water distribution to its consumers ch will abolish the joint use of any of its canals, ditches, pipe lines, ther methods of conveyance with any other individual or organiza-

ending the completion of the above changes in the manner of disution, the applicant should cause to be installed such standard water suring devices as will enable it to determine at any and all times amounts or quantities of water delivered by it into the American er canal of the Natomas Mutual Water Company and the amounts quantities of water which are delivered from same into the valley ral.

; has been the custom in the past for the applicant to require the er users served by the Mormon Island lateral to clean, maintain operate this ditch at their own expense, although these consumers e been charged the same rates for irrigation as prevail on the remainof the system where all the expense of delivery and maintenance is ne by the water company. This practice is unreasonable and unnecry and amounts to an unfair discrimination against the consumers the Mormon Island lateral. This practice should be immediately ontinued and hereafter the applicant shall accord the same requirets, treatment and privileges to all consumers alike for the same or lar types of service.

he schedule of rates set out in the order which follows this opinion templates the placing of all irrigation, mining and other similar ses of service upon a measured basis. In addition to the flat rates in effect for domestic and commercial use in and about the town of som, a meter rate will be authorized which will make it possible to uce to a minimum any waste or carelessness in the use of water. As s impossible to anticipate the exact extent to which the irrigation sumers will adjust themselves to measured service, the rates estabed for irrigation and mining must be necessarily more or less trial s, and therefore should the occasion arise, they are subject to lification through the usual procedure.

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Due allowance has been made for the expenditures which will required to install, operate and maintain the measuring devices nec sary to properly carry out the terms of the following order. Taki into consideration the additional revenues which the evidence disclos may reasonably be expected through the service of water to additio acreage, the following rates will yield to the applicant a fair retu upon its investment over and above the reasonable costs of operati maintenance and depreciation.

The following form of order is submitted:

ORDER.

Natomas Water Company having made application to the Railro Commission as entitled above, public hearings having been held, matter having been submitted and being now ready for decision;

It is hereby found as a fact that the rates now charged by Naton Water Company for water supplied to its consumers are unjust a unreasonable, in so far as they differ from the rates herein establish and that the rates herein established are just and reasonable rates such service.

And basing its order on the foregoing finding of fact and on other statements of fact contained in the opinion which precedes t order;

It is hereby ordered, by the Railroad Commission of the State California that Natomas Water Company be, and it is hereby authoriz and directed to file with the Railroad Commission within twenty (2 days from the date of this order, the following schedule of rates water delivered to its consumers in the town of Folsom and vicinity a in El Dorado and Sacramento counties, said rates to become effective all water service rendered subsequent to January 31, 1923, except otherwise provided below:

SCHEDULE A.

Domestic Service in Folsom and Vicinity.

(1) Monthly Flat Rates:
The schedule of flat rates now in effect.

(2) Monthly Meter Rates:
For the first 600 cubic feet or less ----------$1
For the next 1400 cubic feet per 100 cu. ft.----------
For all use over 2000 cubic feet, per 100 cu. ft.----------

(3) Monthly Minimum Charges:
For ⅝ inch meters ----------$1
For ¾ inch meters ---------- 1
For 1 inch meters ---------- 1
For 1½ inch meters ---------- 2
For 2 inch meters ---------- 3
For 3 inch meters ---------- 4

SCHEDULE B.

Irrigation, Mining and Similar Service.

For each miner's inch flow of twenty-four (24) hours----------$0
Fifty (50) miner's inches shall be taken as the equivalent of one (1) cubic foot of water per second.

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nd it is hereby further ordered:

1) That the Natomas Water Company be and it is hereby directed nstall standard measuring devices for all services where the water vered is to be charged under Schedule B, as set out above.

2) That until such time as the Natomas Water Company shall have alled standard measuring devices on irrigation services, such serv- shall be billed under the former per acre flat rate.

3) That the Natomas Water Company file with the Railroad Com- ision within thirty (30) days from the date of this order, rules and ulations governing service to its consumers, said rules and regula- s to become effective upon their acceptance by the Commission.

4) That January 25, 1923, be and the same is hereby designated as effective date of this order.

he foregoing opinion and order are hereby approved and ordered . as the opinion and order of the Railroad Commission of the State California.

ated at San Francisco, California, this third day of January, 1923.

DECISION No. 11466.

'HE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, FOR AN ORDER AUTHORIZING AN INCREASE OF RATES.

Application No. 5585.

CITY OF SACRAMENTO

vs.

GREAT WESTERN POWER COMPANY,

Case No. 931.

CITY OF OAKLAND

vs.

GREAT WESTERN POWER COMPANY,

Case No. 1204.

C. E. MOEHRLE ET AL.

vs.

.CIFIC GAS AND ELECTRIC COMPANY AND GREAT WESTERN POWER COMPANY.

Case No. 1669.

Decided January 3, 1923.

S OF REASONABLE RATES.—In fixing reasonable rates consideration must be given to the costs of operation of the utility under consideration and rates can not be based entirely upon a consideration of rates charged by the utility in previous years or those charged in the same locality by other utilities.

: BASE—RESERVOIR LANDS.—For rate making purposes any special value attaching to reservoir lands on account of favorable location with respect to water supply and topography is a part of the value of water rights and should be so considered.

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RIGHT OF WAY EASEMENTS.—Right of way easements do not have the same general use and market value as have lands owned in fee. In the absence of better evidence, the cost of acquisition will be taken as the market value to be included in the rate base.

RATE BASE—STRUCTURAL PROPERTY.—Where the construction of additional facilities, during a period of high prices, was accompanied by extravagant expenditures the full incurred cost could not be allowed in the rate base. The value of property used in the production and distribution of steam for heating purposes together with the operating expenses and revenues of such steam heating service ought not to be considered in connection with the fixing of rates for electric service.

RATE BASE—WATER RIGHTS.—The present determination of that value for rate making purposes is not necessary as competitive conditions will prevent the utility from earning a full fair return upon the value of its physical property.

RATE BASE—DEVELOPMENT COST.—While consideration has been given in past proceedings to the possible losses sustained by a company pioneering the development of a new territory, a utility enters a field already served for the purpose of competing for business already developed is not entitled to such consideration.

DEPRECIATION.—Where rates include an allowance for a depreciation annuity, the utility may be required to account to its depreciation reserve for the annuity and for interest of the reserve on annuity having been allowed upon the sinking fund basis.

OPERATING EXPENSES—STATE TAXES.—The state tax which becomes a lien upon the property in March is a proper operating charge for the calendar year although one installment may be paid in July and the second installment in January of the following year. The utility is permitted to accrue state taxes from rates before payments are made to the state but the average amount accrued and held by the utility pending payment to the state is declared to be a proper deduction from the amount of working cash capital necessary to be included in the rate base.

RATE OF RETURN—COMPETITIVE CONDITIONS.—A utility can not expect to charge higher rates than another utility with which it competes for approximately 90 per cent of its gross revenue. While a return of 7.2 per cent including federal income tax might not be considered adequate under other conditions, it is all that can be expected under the circumstances.

Guy C. Earl and *Chaffee Hall*, for Applicant.
R. N. Wolfe, for City of Pittsburg.
Archibald Yell and *R. L. Shinn*, for City of Sacramento.
George Lull and *John J. Dailey*, for City and County of San Francisco.
Leon Gray and *H. L. Hagan*, for City of Oakland.
John T. York, for City of Napa.
Frank V. Cornish, for City of Berkeley.
W. J. Locke, for City of Alameda.
D. J. Hall, for City of Richmond.
I. J. Truman, for Engles Copper Mining Company.
Purcell Rowe, for Reclamation District No. 501.
C. H. Fry, for California Metal and Mineral Producers' Association.
F. S. Brittain, for California Farm Bureau Federation, and E. A. Gammon.
John J. Dailey, *Frank V. Cornish*, *Leon Gray* and *Archer Bowden*, for cities of Petaluma, Morgan Hill, Daly City, San Leandro, Stanford University, Redding, Alviso, Pacific Grove, Colusa, Healdsburg, Marysville, Oakdale, Woodland, Pittsburg, Emeryville, Red Bluff, King City, Orland, Calistoga, Vacaville, Martinez, San Mateo, Redwood City, Santa Rosa, Corning, Placerville, Auburn, Rio Vista, Larkspur, Turlock, Watsonville, Burlingame, Ross, Sonora, Walnut Creek, Corte Madera, Piedmont, Dunsmuir, Mountain View, Albany, Antioch, Rocklin, Pinole, Town of El Cerrito, Hamilton City Chamber of Commerce, Arbuckle Chamber of Commerce.
H. F. Chadborne and *John S. Partridge*, for Cowell Portland Cement Company.
Jesse H. Steinhart, for San Francisco and Sacramento Railroad Company.
Chas. W. Slack and *Edgar T. Zook*, Natomas Consolidated Company of California.
McCutchen, Olney, Willard, Mannon and Green, by *Allen P. Matthew*, for Association of Reclamation Districts.

ROWELL, *Commissioner.*

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OPINION.

The submission of the matters consolidated in this proceeding brings o a close an investigation of the rates charged by Great Western Power Company of California and associated companies which has extended ver a number of years and which, during the period of the war, was nterrupted by emergency proceedings with temporary changes in rates. n view of the extent of the proceeding and the number of recent modifiations in rates, a brief account of the property involved and the recent ate proceedings affecting it is pertinent.

Great Western Power Company was incorporated in September, 1906, nd acquired the properties of several interests which owned rights and and necessary to a comprehensive scheme of development of hydroelectric power on the North Fork of the Feather River. One of these urchases was a tunnel which had been constructed across a bend in he river for mining purposes. This tunnel was enlarged and extended, he present Big Bend or Las Plumas plant constructed to an installed apacity of 30,000 kilovolt amperes, a transmission line built to Sacranento and Oakland, and the delivery of energy was commenced in 1909. A number of small distribution systems were acquired either by purhase outright or by the acquisition of control through stock ownership. The most important of these was the system of City Electric Company, vhich was controlled through stock ownership for several years before eing finally consolidated with the other properties. This company perated a steam generating plant and distribution system in the city f San Francisco. Connection to the transmission system at Oakland vas made by means of a submarine cable and the steam plant thus ecame available for standby purposes. Extensions were made to these listribution systems and new lines were built in other districts. As the usiness grew, additional generating units were added at the Las Plumas power house until its installed capacity now totals 65,000 kilovolt amperes. Additional water supply was developed by the construction of a dam across the North Fork of the Feather River at Big Meadow, crating a large reservoir which is known as Lake Almanor. California Electric Generating Company was incorporated in 1908 for he purpose of constructing a steam plant in Oakland. This plant has an installed capacity of 10,500 kilovolt amperes and was leased to and perated by Great Western Power Company. Great Western Power Company of California, the present operating company, was incorporated in 1915 and in 1916 took over the distribution system of Half Moon Bay Light and Power Company in San Mateo County. In 1919 all properties of Great Western Power Company and associated companies except California Electric Generating Company were transferred to Great Western Power Company of California (Decision No. 3294 16 C.R.C. 712), and construction work was commenced on what is

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known as the Caribou development, consisting of a hydro-electric plan of 44,000 kilovolt amperes capacity and a new transmission line t Oakland, completed in 1921. A connection has been made at Sant Rosa with lines of Snow Mountain Water and Power Company and certain amount of electrical energy is purchased at that point. Stean is distributed for heating purposes in portions of San Francisco an Oakland and in connection with this service a number of small electri generating plants are operated, exhaust steam being supplied to th heating system.

Great Western Power Company of California now distributes elec tricity for all purposes in parts of San Francisco, Oakland, Sacramento Napa, and Petaluma, and in Butte and Plumas counties and in th towns and rural districts along the transmission lines connecting thes points. This territory was for the most part served by Pacific Gas an Electric Company at the time the Great Western lines were built an at the present time in excess of 90 per cent of the company's revenu is derived from territory where service is to a greater or less exten supplied in competition with Pacific Gas and Electric Company.

For the year 1921, 33,500 electric consumers are reported, with a tota connected load of 239,000 kilowatts. In supplying the needs of thes consumers, generating plants carried a simultaneous peak load of 95,54 kilowatts and produced 490,000,000 kilowatt hours. Of this tota output, 479,000,000 kilowatt hours were from hydro-electric plants 8,000,000 kilowatt hours were produced by steam and 3,000,000 kilowat hours were purchased. Of the steam output, 6,000,000 kilowatt hour were from the plants operated in connection with the steam-heatin system and the remaining 2,000,000 kilowatt hours were produced i the larger standby plants operated in connection with the power system

On July 1, 1922, Great Western Power Company of California acquired the electric distribution system in the central portion of San Francisco, formerly owned by Universal Electric and Gas Company Neither the company nor the consumers have initiated any actio toward making the Great Western rates effective on this system, no bringing consideration of the reasonableness of the former Universa Electric and Gas Company rates within the scope of this proceeding Neither the rates, revenues, expenses nor property of this so-called "Universal Division" of Great Western Power Company of California have been subject to consideration herein.

Great Western Power Company of California and California Electri Generating Company are both controlled by Western Power Corpora tion, and the history of their property is replete with incorporations holding companies, leases, etc. Some of these transactions may hav been entirely justified from a financial point of view, but the resultin

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bligations of course can have no influence whatever in the fixing of ust and reasonable rates. An example is in connection with the Oak- and steam plant of California Electric Generating Company where, or the use of property costing approximately a million dollars, Great Western Power Company of California now pays operating expenses, axes, etc., interest and sinking fund on over a million dollars of 5 er cent bonds and 6 per cent dividends on $2,500,000 preferred stock. Such payments can not be considered by this Commission in connection vith the fixing of rates. Applicant agrees with this principle and in resenting figures of the cost of property and operating expenses, has onsidered the property of all of the system corporations as a whole, ntirely eliminating the results of inter-company transactions. Unless therwise specified, any reference to the company or its property in his decision will therefore be understood as including the entire system perated by or in connection with Great Western Power Company of California.

The first of the present consolidated proceedings was Case No. 931, *City of Sacramento* vs. *Great Western Power Company,* which was filed n 1916. It was soon seen that a valuation would have to be made of the ntire property in order to reach a satisfactory decision in this case and vhile this work was progressing, Case No. 1204, *City of Oakland* vs. *Great Western Power Company,* was filed. In 1918, before the comple- ion of this valuation work, Great Western Power Company filed its Application No. 3460 alleging that emergency conditions created by a general increase in prices and wages and a shortage of rainfall, with he accompanying necessity of increased steam generation, required mmediate relief in the form of increased rates. In Decision No. 5518 15 C.R.C. 876) this Commission authorized a surcharge to meet these onditions. This increase was calculated to offset the effect of increased perating expense only and constituted no finding of the reasonable eturn to which the company was entitled and did not constitute a inding of the relative level of rates as between various classes of con- umers or localities.

Costs of operation continued to increase, and in 1920 the company iled the present application asking for further relief in the form of ncreased rates. In June, 1920, in Decision No. 7824 (18 C.R.C. 494), a further increase in rates of 15 per cent was authorized, to be effective or a period of 9 months. Shortly before the expiration of this period he company filed a supplemental application asking that this 15 per ent surcharge be continued indefinitely pending a final decision. This pplication was partially denied, however, and by Decision No. 9018 (19 C.R.C. 939) the surcharge was reduced from 15 per cent to 6 per ent effective April 10, 1921. The rates now in effect are the result of hese modifications and the problem before the Commission in deciding

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the company's application and the complaints of the cities of Sacr mento and Oakland is not only to find the total return that will fair to company and consumers, but to make such modifications in ra schedules as will equitably distribute this burden among localities a groups of consumers.

In Case No. 1669, the complaint of *C. E. Moehrle et al.* vs. *Paci Gas and Electric Company* and *Great Western Power Compan* alleges that the rates charged by these two companies in the so-call Park-Presidio district of San Francisco are higher than the rat charged by them in the down-town district and higher than the rat charged by Universal Electric and Gas Company; that Universal El tric and Gas Company would extend its lines into the Park-Presid district were it not for a limitation upon the amount of power suppli to it by Pacific Gas and Electric Company as lessee of the system Sierra and San Francisco Power Company.

The complainants ask that the Commission require the defenda companies to furnish service in the Park-Presidio district at the sa rates that they charge in the down-town district, or that Pacific G and Electric Company, lessee, be required to furnish sufficient pow to Universal Electric and Gas Company to enable it to extend its lin As far as this complaint concerns the question of the fixing of reasc able rates, it has been combined with the other proceedings now und consideration, and the purchase of the property of Universal Electr and Gas Company by Great Western Power Company of Californ automatically eliminates the question of power supply.

Applicant presents its argument along two lines, first urging th just and reasonable rates are not necessarily based upon the value a operating expenses of the property used in supplying service, but m be determined from a consideration of rates for similar service in oth localities or in past years. This position is supported by reference the Public Utilities Act, under which this Commission functions, a which requires that rates for public utility services shall be just a reasonable, but prescribes no particular method of fixing such rat There is much force in applicant's argument that the electrical ener delivered by one system is similar to that delivered by another, that will perform the same useful service and if used for similar purpos should have the same value to the user. On the other hand one of t objects of creating regulatory commissions such as this, is to preve public utility corporations from making undue profits out of the fa that the value to the consumer of the essential service which th supply may be greater than its cost. The value of service to the co sumer is an important element to be considered in the fixing of rat but it can not be accepted as a sole criterion to the utter disrega of the cost of production and distribution.

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ı anticipation of a consideration of rates along more conventional
; the company has presented evidence and argument regarding the
and value of its property, its operating expenses and revenue from
ent rates. Similar evidence has been presented by engineers repre-
ing groups of consumers and this Commission.

ıe rate base upon which the company contends it should be per-
ed to earn a return is summarized in Table 1 and the various
s will be taken up in detail:

TABLE I.

Claimed Rate Base, December 31, 1921—Great Western Power System.
(Summarized from Applicant's Exhibit 7A.)

Intangible capital	$277,359 00
Lands	4,540,229 00
Structural property	40,713,903 00
Water diversion right	15,000,000 00
Development cost	8,047,185 00
Working capital	938,049 00
Total	$69,516,725 00

ıgibles.

ıe figures of $277,359 for intangible capital consists of two princi-
items, the cost of organization which is given at $261,751 and the
of franchises given at $15,608. In many similar cases this Com-
ion has judged of the reasonableness of the item of organization
nse by a comparison with the total value of the property owned
he company in question, and the allowance made for organization
nse has varied in the neighborhood of one-third of one per cent
larger companies to as much as one per cent for smaller concerns.
his case we believe that four-tenths of one per cent will be reason-
and by applying this figure to the rate base for electric department
erty as discussed in this opinion we find an allowance of approxi-
ly $175,000 for this item. The report of the Commission's auditing
ırtment shows the cost of the franchises of the Great Western
er system to have been $14,409. Adding an allowance for fran-
s to that already made for organization expense gives a total figure
intangible capital of $189,500.

ls.

stimates of the value of operative lands as of December 31, 1921,
e by Mr. C. J. Rhodin for the company and by Mr. E. B. McAuliffe
the Commission are shown in comparative form in Table 2. Both
ıese estimates purport to be of the value of the lands used in connec-
with electric operations as of December 31, 1921, but differences
ıethods of appraisal have resulted in widely different results.

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TABLE 2.

Value of Lands Devoted to Electric Operations, December 31, 1921.
Great Western Power System.

	Applicant's Exhibit 120	Comm Exh
Hydro production—		
Reservoir lands, flooded, 16,700 acres	$1,837,000	$4
Reservoir lands, not flooded, 12,858 acres	1,430,052	--
Canyon lands	75,708	
Steam-electric production	268,290	2
Transmission, owned in fee	58,705	
Transmission, rights of way	594,661	3
Distribution, owned in fee	132,798	1
Distribution, rights of way	143,015	
Total	$4,540,229	$1,3

The difference in the value of the lands used in connection hydro-electric production arises principally in a difference in the ment of reservoir lands. Mr. Rhodin studied the purchase of c lands by the city and county of San Francisco for use in conn with the reservoirs of its Hetch Hetchy water supply system and mined a minimum price for this purchase of $110 per acre. He applied this price to all of the land purchased by the Great We power system for its Lake Almanor reservoir. Mr. McAuliffe, o other hand, has used prices determined from an investigation of conditions and has considered as operative only those lands whic necessary in connection with the reservoir as now constructed. Rhodin holds that because the Hetch Hetchy and Lake Almanor voirs are both used to store water for power, irrigation and dor purposes, the value of the lands in the two are comparable. The of the lands of the Hetch Hetchy reservoir has not been shown to any closer connection with the value of the lands at Lake Almanor has the value of land in the Long Valley or Haiwee reservoirs, city of Los Angeles water supply system, nor, in fact, any other voir sites. If consideration is to be given to a general value of used for reservoirs rather than to the value of the particular lan question, a broad enough comparison should be made to reach a average and reliance should not be placed upon one specific ins which, for all that, the evidence shows may reflect unusually prices.

In making his appraisal of these lands Mr. McAuliffe considere opinions of the residents of the locality and the cost of the lands purchased, including the purchase of a considerable amount of lan was made openly by the power company for use as a reservoir. believe this basis to be much more fair and sound than that of a ing a unit price established in a specific and unrelated purchas will therefore accept the figures presented by Mr. McAuliffe. The

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hich he has classified as nonoperative is not at the present time flooded
the reservoir at any stage and there is no satisfactory evidence to
ow that it is necessary under present operating conditions. It must
concluded that it was purchased and is held in anticipation of a
ture increase in the height of the dam. It is clear that these lands are
t used and useful at the present time, and while they may later
come a part of the operated system, it appears just that they be
minated for the purpose of the present proceeding.

In further support of his claimed value of this land, Mr. Rhodin
esented an analysis of the cost of various water storage dams through-
t the state and showed that in proportion to the quantity of water
pounded the cost of the dam at Lake Almanor plus the value of land
$110 per acre was much less than the cost of any of the other dams
ne. Any value which such a comparison shows to exist is due to the
rategic location of the lands with reference to surrounding topography
d water supply and should not be considered in connection with the
nd itself. Such a location, together with the availability of water
pply and the useful fall of the stream bed below the reservoir site,
nstitute a most important element in any water right value that may
ist and as such will be discussed at a later page of this decision.

Except for certain recent purchases in connection with the new trans-
ission lines from the Caribou plant, Mr. Rhodin has priced lands
ned in fee and devoted to steam production, transmission and dis-
ibution purposes by adding a factor of twenty per cent to the original
st. Mr. McAuliffe has made a study of recent transfers of similar
d adjacent lands and has estimated the present value of each parcel
on this basis. In some cases his figures are higher than those of
r. Rhodin, as in connection with steam production, while in other
ses he is somewhat lower, as in lands used in the transmission and dis-
ibution departments. Regardless of the result, we feel that such a
tailed estimate is far more correct and reliable than the method of
lding a flat percentage.

In connection with the appraisal of transmission line right of way
sements, Mr. Rhodin compared the cost of one mile of right of way
cently secured for the new Caribou transmission line with the cost
an adjacent section of right of way of the original line and found
e cost of the new right of way to be two hundred thirty-seven per
nt of the cost of the original right of way secured some years ago.
e therefore estimates that the value of transmission line right of way
sements has increased by one hundred thirty-seven per cent, and
find the present value of the original right of way adds this factor
increase to its cost. As a check on this method the Commission's
gineers made a comparison of all of the parallel sections of the right

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of way of the old and new lines and found that for the whole the ratio was four hundred seventy-five per cent instead of two hundred thirty-seven per cent as found by Mr. Rhodin for one unit. There appear to be two important errors in the method which Mr. Rhodin has applied, one of which is the inclusion of expenses of acquisition damages, etc., in the costs by which the ratio is determined and to which it is applied. The other source of error is probably more important and is due to the fact that in securing the new right of way which has been used for comparison, the company was in reality widening the original right of way. The location of the right of way to be purchased was fixed, and as the purpose of its acquisition was known excessive prices were undoubtedly charged in many cases, with the result that the comparison of costs is not representative of any increase in value.

These easements could not be sold by the company except to some other concern that desired to operate a similar line in the same location and they can not be said to have a market value in the sense that land has such a value. In past cases it has been the policy of this Commission to consider the cost of any such easements rather than to attempt to estimate their present value. In line with this policy the figures presented by Mr. McAuliffe for transmission and distribution line right of way easements will be used.

Structural Property.

The claimed cost of structural property is based on an estimate of historical cost prepared by Mr. A. R. Kelley as of June 30, 1918, to which has been added the actual cost of subsequent additions and betterments. Mr. Paul Thelen of the Commission's valuation department prepared an estimate of historical reproduction cost as of various dates for different parts of the property, which he has brought down to June 30, 1918, for comparison with Mr. Kelley and to December 31, 1921, by the addition of the book costs of additions to the property.

A representative of the Commission worked with Mr. Kelley while his appraisal was being prepared and inventory quantities were practically agreed upon, so that the differences between his appraisal and Mr. Thelen's are largely due to methods of treatment of certain elements of the property. The questions which have come up over these figures have almost entirely fallen into three groups, one being over certain differences between the Thelen and Kelley figures of June 30, 1918, another being over the proper allowance to be made in the rate base for the cost of the Caribou development and the third being the proper treatment of the steam-heating system in connection with the fixing of electrical rates. A summary of the figures entering into these discussions is shown in Table 3.

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TABLE 3.

Estimates of Historical Reproduction Cost, Operative Structural Propetry—Great Western Power Company.

	Company	Thelen	Difference
perty of June 30, 1918	$23,260,130	$22,526,280	$733,850
ibou development	15,281,662	15,149,977	131,685
er additions to December 31, 1921	2,172,111	2,171,388	723
Total December 31, 1921	$40,713,903	$39,847,645	$866,258

Of the difference of $733,850 in the figures for the property of ne 30, 1918, $327,676 is in the estimates of interest during construcn. These estimates differ most widely in the method of treatment of erest during construction on the enlargement of the Big Bend nnel. This tunnel was purchased from the Pierce interests, extended l enlarged to a size sufficient for the ultimate capacity of the Las mas plant, but during the early years, while the load on this plant s building up, beneficial use could not be made of the full capacity the tunnel. Mr. Kelley has used the payment made for the Pierce avation, plus the cost of enlargement, and has added interest on rt of this total during the time the full capacity of the tunnel was utilized. Mr. Thelen, on the other hand, has priced the total yardof the tunnel at the unit costs established at the time of enlargement l has allowed interest only during a reasonable construction period. e result is that Mr. Thelen is higher than Mr. Kelley by approxitely $250,000 in construction costs and lower on interest during nstruction by about $395,000.

The remainder of the amount by which Mr. Thelen's figures are ver than those of Mr. Kelley is similarly due to questions of theory her than of fact and is largely composed of three items. Before the nstruction of the present earth-fill dam which impounds the waters Lake Almanor, an attempt was made to build a multiple arch reinced concrete dam. After construction work was started it was found at the cost of reaching bedrock in the stream bed would be prohibie and the partially completed structure was abandoned in favor of present earth-fill dam. Mr. Kelley includes an item for the cost of abandoned work while Mr. Thelen has omitted it on the ground at the structure is not now used or useful. The net difference, after listribution of certain indirect costs, is $582,585.

A somewhat similar deduction made by Mr. Thelen is of $57,461 the cost of clearing the hillside in contemplation of a much higher version dam at Big Bend than was later decided to be practicable. temporary timber crib diversion dam used at this point during the st two years of operation of the Las Plumas plant and now subrged behind the permanent concrete structure has been included Mr. Kelley at full estimated cost, while Mr. Thelen has allowed only

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its value as a part of construction plant in connection with the buildin of the larger dam. The net difference is not quite $97,000.

The difference in all of these figures is due to a difference in the en sought to be attained rather than in the facts determined. Mr. Kelle attempted to estimate total historical expenditures, while Mr. Thele endeavored to find the reasonable historical cost of property now use and useful. Neither has been able to use actual figures throughout, o to avoid reliance on estimates. In cases where actual figures for cos are available and where earnings, operations and accounting have bee subject to regulation throughout the period involved, we believe reason able cost may be a sound basis for use in the fixing of rates. In th present case neither of these conditions is present.

Mr. Kelley was no more able to use actual records of cash expend tures than Mr. Thelen, and the unusual conditions of construction o operation which he sought to reproduce had passed when the jurisdi tion of this Commission was extended to electric utilities. The tempo rary diversion dam at Big Bend, for example, was built to enable th plant to produce revenue with the least possible amount of delay an capital expenditure. Its cost should have been, and perhaps wa amortized out of the earnings of the two years during which it wa in operation. Similarly, for all that is satisfactorily shown in th evidence, the interest during construction on Big Bend tunnel whic Mr. Kelley set up may already have been earned over and above fair return on a reasonable rate base. Mr. Thelen's figures for th property of June 30, 1918, will be accepted.

Aside from small charges covering construction work still in progre and construction equipment on hand, the company's statement of th cost of the Caribou development agrees with that of Mr. Thelen. Th expenditures far overran the estimates and there was much testimon and argument upon their reasonableness. Plans for this developme were prepared and estimates were submitted to the Commission earl in 1919 in connection with an application for permission to issue secur ties. At that time, it will be recalled, the Armistice had recently bee concluded, committees were considering methods of securing emplo ment in the country's industries for demobilized soldiers and economis were predicting sharp reductions in prices. As a matter of fact, price as indicated by the U. S. Bureau of Labor Statistics price inde actually declined late in 1918 and early in 1919. The index numb for metals and metal products, for instance, indicates that prices this group of commodities were one hundred eighty-seven per cent 1913 prices in October, 1918, and had declined to one hundred fifty-tw per cent in April, 1919. It was under these conditions that an estima showing a cost of approximately $6,000,000 for plant and transmissio

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was prepared and that in approving the sale of securities to finance
project this Commission said:

hough the estimate is not in detail a preliminary check has been made of it
e Commission's engineering department. It appears that the estimate is a
l one and that the proposed construction can be carried out within the figures
l by the company. The tendency of prices for material is downward and the
lty of securing efficient labor is becoming less." (Decision No. 6294, 16 C.R.C.
April 26, 1919.)

nstruction work was started in the spring of 1919 and at practi-
the same time the anticipated period of deflation proved itself to
ıe of intense inflation. Prices rose instead of falling, and the men
vhom committees had been endeavoring to find work were able, as
st never before, to pick and choose where and under what condi-
they would accept employment. The price index for all commodi-
rose from about 200 early in 1919 to a peak of 272 in 1920, and
ndex for the price of lumber and building materials more than
led during the same period. In addition to increases in prices of
rials, unsatisfactory labor conditions, and losses through delay in
ring the delivery of material and equipment, other construction
ulties were experienced. The mountain through which one of the
els was to be driven was found to contain a prehistoric river bed
red by a cap of lava and much trouble was encountered with quick-
and water. At one time over 2000 horsepower was in use in
ing this tunnel clear of water and the cost of pumping was almost
l to the original estimate of the total cost of the tunnel exclusive of
ects and overheads. Troubles of the same character, although not
evere, were encountered in other portions of the work, with the
t that all of the estimates were badly overrun and the final cost
he plant was $12,783,188 as compared with an estimated cost
4,321,000, and the transmission line cost $2,366,790 instead of
35,000 as estimated.

ıe company admits that the cost was far more than was estimated
more than would be reasonable under normal conditions, but con-
s that the money was honestly spent with the utmost possible
ency at a time when such development was urgently needed and
it is entitled to a return on the full cost. Mr. Dailey, representing
ities, contends that the plant is not yet entirely operative and that
work was probably extravagantly handled, while Judge Brittain,
esenting the California Farm Bureau Federation, further urges
the construction of the plant was unnecessary. The vouchers and
elled checks for practically the entire expenditure have been
ked by a representative of the Commission and there appears to
o question but that the amount reported was actually and honestly
t.

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No one familiar with the conditions will deny that this develop was commenced at a time when additional electric generating facil were most urgently needed. Development had been at a standstill several years and the growth of load coupled with a shortage of hy electric output made actual curtailment of the use of power by exis consumers a necessity during 1919 and 1920. This plant and the Ke hoff plant of San Joaquin Light and Power Corporation were the two projects undertaken and completed after the war and were im tant factors in alleviating the shortage of power. Under the po administration undertaken by this Commission, producers of foods suffered less than many other classes of consumers, but had this pany and other companies not undertaken and carried out construc work when they did, the situation would have been much more ser for the agricultural sections of the state than it was. Viewing matter in the light of the knowledge and conditions of 1918 and 1 the company is entitled to credit rather than criticism for underta this project, although it is equally true that subsequent developm have shown that some other course might better have been followed

The evidence in regard to the construction difficulties and metho too voluminous to be reviewed in detail, but careful consideration been given to the entire record. We cannot believe that the condit under which the work was carried out were such as to make for reasonable efficiency nor can we escape the conviction that these co tions, to a certain extent, were subject to the control of Great Wes Power Company. In this connection we must remember that to w ever extent excessive expenditures were due to a short construc period, they have been partially, but probably only partially, mad to the company by additional earnings from the sale of power an the public by a saving of fuel oil and by the earlier alleviation power shortage. The extent to which these circumstances, change construction management and other causes of undue expendit influenced the cost, is not capable of exact calculation, but we be that taking all things into consideration, an allowance in the rate of $11,000,000 for the plant as of December 31, 1921, will be fair just. The cost of the transmission line has not been subject to ser question, and in view of the reduced allowance for the plant, the tr mission line will be allowed to stand at the actual cost as repo This makes a total reasonable allowance for plant and transmission of $13,366,790 as compared with an actual expenditure of $15,149 The question as to the extent to which this investment is now oper will be referred to later in this decision.

The figures for property of June 30, 1919, and for additions betterments to December 31, 1921, other than the Caribou developn cover the plants and distribution systems for supplying steam-hea

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:vice. Representatives of the consumers urge that the capital, revenue d operating expenses in connection with this steam-heating service ould be excluded from consideration in connection with the fixing of :ctric rates. The company admits the justice of this contention as to inciple but urges that the practical effect will not be large. An amination of the details of the appraisal of June 30, 1918, and of the ditions and betterments reported since, indicates that the amount to deducted from capital on this account is $1,323,500. This deduction more in the nature of a reclassification, however, as it is made, not rough any question as to the existence of the property, but because is used for another service which is not to be considered in the present nnection.

Accepting Mr. Thelen's figures for the property of June 30, 1918, ding additions and betterments, and making the corrections which ve been referred to, results in a figure for the operative electrical partment structural property of December 31, 1921, of $36,740,957.

ıter Rights.

The company's claim of $15,000,000 for the value of its water rights based upon the expert testimony of Mr. C. J. Rhodin, its consulting gineer. His testimony shows that his opinion is based upon and pported by various calculations which were filed as exhibits and of which, in one way or another, are based upon the earning capacity the Las Plumas plant. Two errors appear to run through all of se calculations, one of them the fundamental error of attempting to earnings as a basis for a value which is in turn to be used as a basis earnings. The other is in the very important detail of confining the culations and opinion regarding value to the Las Plumas plant and irely excluding the effect on the earning capacity of the system of recent heavy expenditure on the Caribou development.

The Great Western Power Company owns rights and lands along Feather River which give it the control for power purposes of a re than usually constant water supply, a satisfactory fall in the river l a very unusual reservoir site. Considering this property as a ole and comparing it with other opportunities for similar develop- nt in this state, it can not be denied that it has a definite value for purposes or whatever other purposes and to whatever other ent such a value is to be considered.

The question of the exact allowance which should be made for the ue of these rights in connection with the fixing of reasonable rates is important at the present time, for, as will be shown later, this ıpany will be unable to earn as large a return upon its tangible ues as might be considered reasonable, to say nothing of any return ın water rights or other intangibles.

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Development Cost.

In connection with its claim for development cost the company tak the position that during its early years any hydro-electric utility mu incur certain losses, and that the normal amount of such losses shou be considered in connection with the rate base. The loss to be consi ered in this way is not, according to this argument, the actual lo incurred by the company under consideration, but the normal loss whi would be incurred by such companies in general. In this connection calculation of past losses of Great Western Power system below uniform return of 8 per cent on invested capital was presented b Mr. Rhodin and it was suggested that the total of $8,047,185 which h found should be taken in connection with similar figures presente before this Commission by other companies in determining the norma development cost.

Where a company pioneers development in a new territory an actually incurs losses in making a new service available to the publi there is often justification for the claim that such losses are just a much a part of the cost of the system as are the costs of constructe property. Where the existence of such conditions was satisfactoril established, this Commission has on occasions allowed an item for deve opment cost in the rate base, but it has never agreed that a compan should be insured a full 8 per cent return during the developmen period, as Mr. Rhodin has assumed in his calculations.

In the case of Great Western Power Company it does not appear tha any great amount of pioneer development work was done. The histor of the company and the fact that practically 90 per cent of its presen revenue is obtained from territory served in competition with Pacifi Gas and Electric Company indicate that instead of getting into ne districts it entered fields which were already served, for the purpose o competing for a business that had been at least partially if not largel developed. Such losses as were incurred were not the result of extend ing new services for the benefit of the public and the burden should no be placed upon the consumers. No allowance will be made in the rat base for this item and it is therefore unnecessary to discuss in detai the effect of certain inaccuracies conceded to exist in the basic figure upon which Mr. Rhodin relied.

Working Capital.

The claim for working capital shown as $938,049 is composed of tw items, $498,520 for working cash capital and $439,529 for materials an supplies. Sixty days' operating expenses, exclusive of taxes, has ofte been considered a reasonable basis for an allowance for working cas capital and the amount of $265,000, calculated upon this basis, will b

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l herein. On the basis upon which taxes are allowed in this decision, ments made to the state in January and July will be accrued during six months preceding their payment. The company will, therefore, e on hand and available for general use a sum equivalent, on the rage, to one-half of each installment of state taxes, or to one-quarter he total. This amounts to approximately $117,000 and should be ucted from the sum which would otherwise be required for cash ital. The figure suggested for the investment in the materials and plies that must be kept on hand for the operation of the system ears reasonable. A total allowance of $590,000 for working capital be considered reasonable.

itions and Betterments.

The figures relating to physical property which have already been dis-sed were determined as of December 31, 1921. Since that date there been the usual growth in distribution system and some unusual enditures have been incurred in providing a receiving substation and n distribution feeders to handle the additional output from the ibou development. These expenditures cover the construction of new Golden Gate substation near Oakland and the laying of a cable under San Francisco Bay, and for the year 1922 are esti-ed to amount to $2,542,000. If we assume that this expenditure is le at a practically uniform rate, it will, on the average, be operative half of the year and a reasonable allowance in the rate base will $1,271,000.

Before entering upon a discussion of operating expenses, depreciation other annual charges, the figures of cost and value of property ch have already been discussed may be summarized. Table 4 shows otal reasonable rate base for the year 1922 of $40,144,479. No mpt will be made to set up detailed estimates for the coming year, consideration will be given to certain important changes in operat-conditions as they affect the use of 1922 figures as a basis for future s.

TABLE 4.

sonable Rate Base, Year 1922—Great Western Power System Electric Department.

Intangible capital	$189,500 00
Lands, as of December 31, 1921	1,353,022 00
Structures, as of December 31, 1921	36,740,957 00
Additions and betterments, portion operative, 1922	1,271,000 00
Working capital	590,000 00
Total	$40,144,479 00

reciation.

Estimates of the reasonable depreciation annuity for the property f December 31, 1921, were presented by Mr. Rhodin for the company by Mr. Thelen for the Commission. Mr. Rhodin arrived at a result

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of $357,906, while Mr. Thelen's figures were $331,237. The differen
is found to be almost entirely due to the fact that Mr. Rhodin's estima
is based upon a total figure for constructed property of $40,775,0
developed from the appraisal presented by Mr. Kelley, while Mr. Thel
has based his figures upon the valuation which he presented. Corr
tions would have to be made in both of these figures for the deducti
which has been made in the reasonable cost of the Caribou developme
and on account of the elimination from electric department of stea
heating capital heretofore referred to. We find that after giving co
sideration to these factors and to the additions and betterments es
mated for the year 1922, an annuity on the 6 per cent sinking fu
basis of $330,000 will be reasonable for the electric department. Th
will be considered as a reasonable sum for the company to collect fr
consumers to take care of the depreciation of the property which
being used in their service, but it is not a sum which is to be turned ov
to the company for such disposition as it cares to make of it. T
depreciation reserve, it may be argued, belongs to the stockholders, b
so do the generating plants and distribution lines. The depreciati
reserve is, in a sense, and a very real sense, a part of the property th
is used in the service of the public and may be considered as subject
the same control by the public as the physical property. The compa
must, in the future, account to the reserve for an annuity upon the bas
now being found and in addition thereto for interest at 6 per ce
on the amount of the reserve. In line with the policy adopted in rece
decisions, we will require that the company build up its depreciati
reserve to a figure commensurate with the accrued depreciation of i
property. In connection with his appraisal of the property, Mr. Pa
Thelen of the Commission's engineering department, made a study
the depreciation reserve on the 6 per cent sinking fund basis. H
report, filed as an exhibit in the case, shows that on the basis of h
valuation figures, the depreciation reserve should total $2,715,837
of December 31, 1921. This figure, however, is based on the fu
incurred cost of the Caribou development and the inclusion of the stea
heating system. After making corresponding corrections, we find th
$2,470,000 would be a reasonable figure for the depreciation reser
for the electric department only as of December 31, 1921. The ord
herein will require the transfer from surplus of a sum sufficient to bri
the depreciation reserve up to this figure.

Operating Expenses.

The operating revenues and expenses of the system as reported f
the past three years in the company's exhibits are shown in Table
The figures for the year 1922 are the actual result of the operations

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ıe first eight months combined with estimates for the last four months f the year.

TABLE 5.

Operating Revenues and Expenses—Great Western Power System.

(Summarized from Applicant's Exhibits.)

evenue:	1920	1921	1922
Electric	$5,411,368	$5,947,711	$6,295,592
Steam heat	292,225	330,670	367,150
Other	1,928	1,118	1,500
Water sales (net)	99,188	81,015	80,000
Totals	$5,804,709	$6,360,514	$6,744,242
xpense:			
Production	$1,212,341	$699,207	$760,020
Transmission	137,924	134,933	167,807
Distribution	338,978	370,018	409,791
Steam heat	92,069	92,408	110,660
Commercial	194,090	236,880	276,053
Taxes	451,436	640,510	674,588
General and miscellaneous	190,143	260,219	349,726
Totals	$2,616,981	$2,434,175	$2,748,635
'et for depreciation and return	$3,187,728	$3,926,339	$3,995,607

In explanation of the marked increase in the item of general and ıiscellaneous expense, it should be pointed out that this figure includes number of adjusting entries, one of which was credit of power used or construction purposes on the Caribou development during 1920 and 921. If the effect of this credit is eliminated the item becomes 292,113 in 1920, $344,410 in 1921 and $352,226 in 1922. A number of mall corrections which may be made in this item are in the aggregate 'orthy of consideration. Figures for 1922 include charges of $57,800 esulting from the writing off of extraordinary expenses in connection 'ith the valuation of the system of Mr. Kelley and the protection of roperty during a strike early in 1921. The payment of these expenses s practically complete with the charge for the year 1922, and in conidering operating expenses to be used as a basis for future rates, they ıay be therefore eliminated.

During the course of hearings on the company's application for an ndefinite continuation of the 15 per cent surcharge, attorneys for roups of consumers took exception to the amount charged by the com- ıany for salaries of general officers and particularly to the salary of the resident which was shown to be $30,000 per annum, plus 3 per ent of net earnings after bond interest and preferred stock dividends, mounting to a total sum of between $50,000 and $60,000 per year. n passing upon this question this Commission reduced the allowance or general officers' salaries in the reasonable operating expenses by 28,000. In presenting its figures for the portion of the case now eady for decision, applicant states that this salary is now a definite

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sum, but it has again included the full amount which is paid. W believe that a reduction of $35,000 may be made in the figures for 192 as presented. If the stockholders of the company desire to pay larg salaries out of the fair return allowed on the property it works no hard ship upon consumers, but we will expect that in setting up figures o operating expenses for use in future consideration of rates, the com pany will follow the basis established herein.

It has already been pointed out that for the purpose of fixing reason able rates for electric service, the operations of the steam-heating syste will be eliminated. One result of this is a direct elimination fro the operating expenses as reported by the company of the item o steam-heating expense amounting to $110,660 for 1922. An analys of the details of production expense shows that in addition to the co of fuel oil for the steam-heating plants, which will be discussed late $16,250 operating expenses and maintenance in these plants should b transferred from the electric department to the steam-heating servic The completion of work now under way on the Golden Gate substatio and the new submarine cable into San Francisco will permit a sligh reduction in the consumption of fuel oil. In addition to this the fu oil burned in the steam-heating plants is being eliminated from electr department expenses, and the effects of reductions in the price of fu oil occurring during 1922 should be reflected in figures that are to b used as the basis for future rates rather than as representative of actu 1922 operations. A revised estimate of the cost of fuel oil to b charged to electric production is about $280,000 less than the total fo 1922. On the other hand, the steam-heating service must be credite and the electric department charged with the value of approximatel 6,000,000 kilowatt hours produced in the steam-heating plants an delivered to the electric system. One cent per kilowatt hour will be co sidered a reasonable price for this energy. Other minor changes hav been made in the figures for 1922 to make them more representative o the normal operating conditions that will be met with in future. Sta taxes were set up by applicant on the basis used by this Commission i recent decisions, that is, the tax included in operating expenses for th calendar year is that which is levied and becomes a lien upon the pro erty in March of the calendar year. The first installment of this tax due and payable in July and the second installment in the followin January. Consideration has already been given under the subject working capital to the use which the company may make of the mon accrued during each half of the year for the payment to be made at th end of that half year.

The federal income tax of 12½ per cent of net revenue after bon interest and depreciation has been eliminated from operating expens

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s has the amount which is paid to the federal government under tax-ree covenants in bonds.

The final result of these modifications is summarized in Table 6 'hich shows a total reasonable operating expense of $2,120,000 for the ear 1922, as modified to meet the conditions that may be considered ormal for the immediate future.

TABLE 6.

Reasonable Annual Operating Expenses, Based on Year 1922.
Great Western Power System.

Production	$465,000 00
Transmission	178,500 00
Distribution	410,000 00
Commercial	276,000 00
Taxes	530,000 00
General and miscellaneous	260,500 00
Total	$2,120,000 00

tevenue.

As has been previously pointed out approximately 90 per cent of the gross electric revenue of the Great Western Power system is derived rom territory in which service is supplied in competition with Pacific Gas and Electric Company. The rates of this latter company were the ubject of consideration in a late proceeding before this Commission 'hich ran concurrently with the proceeding now subject to decision. n Decision No. 11457, dated December 30, 1922, a reduction in the resent rates of Pacific Gas and Electric Company averaging approxi-nately 10 per cent was ordered. It is clearly impractical for the Great Western Power system to attempt to charge a higher rate than the ompany with which it is to so large an extent in competition, and the evenue which it may expect is therefore limited to that resulting from n application of the new rates fixed for Pacific Gas and Electric Com-pany. Electric revenue reported for the year 1922 contains an item f over $650,000 on account of the sale of energy to Pacific Gas and Electric Company and with the completion late in 1922 of that com-pany's new Pit River plant, the occasion for this transfer of energy will e largely if not entirely eliminated. The electric revenue of $6,295,000 hown in Table 5 for the year 1922 could not, under such conditions, e expected to exceed $5,250,000. The separation of the steam-heating usiness eliminates a revenue item of $367,000 and if we include $80,000 or the wholesale delivery of water to Western Canal Company, we nd that the maximum figure which can reasonably be credited to the lectric department, is not far from $5,330,000. This, it will be under-tood, is not an estimate of the revenue for the coming year but is rather revision of the revenue for the past year to conform to important hanges in operating conditions, and is therefore upon the same basis

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as the estimates and allowances previously made for operating expens depreciation and rate base. Deducting the operating expenses $2,120,000 and the depreciation annuity of $330,000 as previou found reasonable, leaves a net revenue of $2,880,000 available fo return upon the rate base of $40,144,479 amounting to approximat 7.2 per cent.

In a number of cases decided shortly after its jurisdiction v extended to electric utilities, this Commission considered 8 per c upon the reasonable investment as a fair rate of return. Since th decisions, an income tax has been imposed by the federal governm which, in this case, is being excluded from operating expenses a which amounts to about $95,000 per year. This is about one-quarter 1 per cent of the rate base used so that a return of 8¼ per cent the present case would be no more than equivalent to the return 8 per cent allowed in certain early decisions. During the war a the period immediately following, even the strongest utilities fou they could not borrow money without paying interest rates in exc of 8 per cent to the extent that money borrowed at abnorm interest rates was spent in keeping pace with the demands the public for service, some consideration should be given to t increase in the average cost of the money invested. On the other ha the evidence in this proceeding shows that the company now holds quite $100,000 advanced by consumers, to secure the construction distribution line extensions and upon which no interest is paid. giving consideration to the fixing of a definite rate of return the eff of these advance payments and of other factors should all be giv detailed attention, but in view of all the circumstances it can not considered that the return of 7.2 per cent to be expected from the bu ness of the year 1922, under present operating conditions is entir adequate. It is, however, as much as the company can expect to rece under the competitive conditions.

A large part of the present investment is in the Caribou developm and the facilities which are being provided for the distribution of output. Growth of business will require some additional investment local distribution lines and will, to a certain extent, tend to incre certain items of operating expenses, but as far as the main producti and transmission system is concerned, a considerable increase in bu ness, and consequently in revenue, can be handled without a corresp ing increase in investment or operating expenses. As new load developed the rate of return will therefore increase. Analysis of t situation shows that by the time the new plants and transmission li are fully loaded, the company may be expected to be receiving a sat factory rate of return upon the full investment.

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eat Western Power Company of California competes with Pacific and Electric Company with respect to approximately 90 per cent s business. The rates for that company were fixed by this Com-on in its Decision No. 11457, in Application No. 5567, which rates ffective for flat rate service rendered on and after February 1, 1923, metered service based upon meter readings taken on and after uary 20, 1923. The rates for Great Western Power Company of ornia must at least, in all competitive territory, be the same as the charged by its competitor. In view of the special consideration the equitable division of charges between the various classes of ce in the Pacific Gas and Electric proceeding, it does not appear sary to go into the details of the spread of rates in this decision.

e rates herein fixed are in general the same as those found reason-on Pacific Gas and Electric Company's system, with the exception special rate for electric water heating, which is continued for nt consumers, and a limited rate for chemical and metallurgical stries.

eat Western Power Company of California has developed consider-business under the low rate for water-heating service. It does ppear that the consumers taken on by this company under this low should be forced to pay an increased rate at this time and they be continued at the present rates including the surcharge and the lule closed.

plicant supplies service in Plumas County under more expensive itions than in its general territory, and the general wholesale r schedule will not be made applicable to this district but the ral power schedule will be made effective.

plicant supplies electric service under a limited schedule for ro-chemical and metallurgical purposes, which at present is limited minimum of 500 kilowatts and 22,000 volts delivery. It appears the evidence that this rate should be extended to smaller installa-but at a higher charge per month, and a rate to take care of this ition has been fixed herein.

ORDER.

eat Western Power Company of California having applied to the road Commission for authority to increase its electric rates, various plaints having been filed against the electric rates of Great Western r Company of California, public hearings having been held, the ers being submitted and now ready for decision:

e Railroad Commission of the State of California hereby finds as t that the rates of Great Western Power Company of California

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are unjust, unreasonable and discriminatory in so far as they diff from the rates herein provided.

Basing this order on the foregoing finding of fact and on the findin of fact in the opinion preceding this order;

It is hereby ordered:

(1) That Great Western Power Company of California charge an collect for electric service now supplied under filed schedules, the rat set forth in Exhibit "A" which is attached hereto and made a pa hereof, such rates to be filed with this Commission on or before Febr ary 1, 1923, and to become effective for metered service with bills, base upon regular monthly meter readings taken on and after February 2 1923, and for flat rate service delivered on and after February 1, 192

(2) That Great Western Power Company of California charge an collect for electric service, now supplied under special contracts, th rates and charges set forth in said Exhibit "A" except where suc schedules are not applicable to the conditions under which such servi is supplied.

(3) That Great Western Power Company of California charge an collect for electric service, now supplied under special contracts an under conditions to which the rates set forth in said Exhibit "A" ar not applicable, the rates and charges provided in such special contract exclusive of the 6 per cent surcharge now in effect, effective for metere and flat rate service as provided in paragraph one (1) above.

(4) That on or before April 1, 1923, Great Western Power Compan of California file for the approval of this Commission a statement c uniform conditions under which it will purchase transformers require by provisions of rate schedules fixed in this order to be hereafter pr vided by Great Western Power Company of California but now owne by consumers.

(5) That Great Western Power Company of California, at the optio of the consumers, continue to charge and collect for service supplied t existing consumers under its Schedule C-3 C.R.C. Sheet No. 330–331 the rates and charges therein, increased 6 per cent, provided that thi schedule shall be closed to future consumers.

(6) That on or before April 1, 1923, Great Western Power Compan of California file for the approval of this Commission a statement o the entries which it proposes to make upon its books in adjusting it depreciation reserve to comply with the principles laid down in th opinion preceding this order.

(7) That in territory where public highways are not generally avail able for the construction of its lines, Great Western Power Compan of California shall hereafter construct necessary transmission or dis tribution lines on private property where right of way easements ca

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reasonably obtained, under the same rules that apply to the construction of lines upon public highways.

8) That Case No. 951, *City of Sacramento* vs. *Great Western Power Company*, and Case No. 1204, *City of Oakland* vs. *Great Western Power Company*, be and the same are hereby dismissed.

9) That Case No. 1669, *C. R. Moehrle et al.* vs. *Pacific Gas and Electric Company* and *Great Western Power Company of California* and the same is hereby dismissed in so far as it concerns Great Western Power Company of California.

10) That the effective date of this order be January 24, 1923.

Dated at San Francisco, California, this third day of January, 1923.

EXHIBIT "A"

SCHEDULE L-1.

(Canceling L-3, L-4, L-5, L-7 and P-9.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and small power service.

Territory.

Applicable to service within the incorporated limits of San Francisco, Oakland, Berkeley, Piedmont, Emeryville, San Leandro and Albany.

Rate.

First	10 kilowatt hours or less per meter per month	90 cents
Next	40 kilowatt hours per meter per month	6 cents per kilowatt hour
Next	150 kilowatt hours per meter per month	5 cents per kilowatt hour
Next	800 kilowatt hours per meter per month	4 cents per kilowatt hour
Next	2000 kilowatt hours per meter per month	3 cents per kilowatt hour
All over	3000 kilowatt hours per meter per month	2½ cents per kilowatt hour

Special Conditions.

a) Single phase motors of a capacity of 5 horsepower or less may receive service may be combined with general lighting service under this schedule of rates at option of the consumer, provided in case of combination service the total energy supplied through one meter.

The minimum charge applicable to this combination service is the minimum charge set forth above.

b) Motors of a capacity in excess of 5 horsepower may receive service or be combined with general lighting service under this schedule of rates at the option of consumer, provided in case of combination service the total energy may be supplied through one meter, in which case the total minimum charge will be 90 cents per horsepower per month of motor load.

Combination will not be made between A. C. and D. C. service. Single phase and polyphase will not be combined unless obtainable from the same service wires.

c) The company has the option of refusing D. C. service where both A. C. and D. C. service are available.

SCHEDULE L-2.

(Canceling L-1, L-7 and L-8.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase service to motor loads not to exceed 5 horsepower capacity.

Territory.

Applicable to service within *all incorporated limits* served by company except San Francisco, Oakland, Berkeley, Piedmont, Emeryville, San Leandro and Albany.

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Rate.

First	10 kilowatt hours or less per meter per month		$1 00
Next	40 kilowatt hours per meter per month	6	cents per kilowatt hour
Next	150 kilowatt hours per meter per month	5	cents per kilowatt hour
Next	800 kilowatt hours per meter per month	4	cents per kilowatt hour
Next	2000 kilowatt hours per meter per month	3	cents per kilowatt hour
All over	3000 kilowatt hours per meter per month	2½	cents per kilowatt hour

Special Conditions.

(a) Single phase motors of a capacity of 5 horsepower or less may receive service or may be combined with general lighting service under this schedule of rates at the option of the consumer, provided in case of combination service the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge as set forth above.

SCHEDULE L-3.

(Canceling L-2, L-6 and L-7.)

General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase service to motor loads not to exceed 5 horsepower capacity.

Territory.

Applicable to service in entire territory served, outside of incorporated limits.

Rate.

First	10 kilowatt hours or less per meter per month		$1.25 per month
Next	40 kilowatt hours per meter per month	7	cents per kilowatt hour
Next	150 kilowatt hours per meter per month	6	cents per kilowatt hour
Next	800 kilowatt hours per meter per month	5	cents per kilowatt hour
Next	2000 kilowatt hours per meter per month	4	cents per kilowatt hour
All over	3000 kilowatt hours per meter per month	3½	cents per kilowatt hour

Minimum Charge.

(a) Where lighting service is supplied from a power bank of transformers or from distribution lines of 5000 volts or less the minimum is $1.25 per consumer per month.

(b) Where a separate transformer is required to be installed on distribution lines in excess of 5000 volts the minimum charge will be $2.50 per month for one consumer and $1.25 per month per consumer for two or more consumers.

Special Conditions.

(a) Single phase motors of a capacity of 5 horsepower or less may receive service or may be combined with general lighting service under this schedule of rates at the option of the consumer, provided in case of combination service the total energy is supplied through one meter.

The minimum charge applicable to this combination service is only that minimum charge as set forth above.

SCHEDULE L-4.

(Canceling Schedule L-9.)

Street and Highway Lighting.

Applicable to service to street, highway and other public outdoor lighting installations, using bracket, mast arm, or center suspension construction, and supplied from overhead lines, where the company owns and maintains the entire equipment.

Territory.

Applicable to the entire territory *except* the city of San Francisco.

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Rate (A). Incandescent Lamp Service.

Lamp rating	Monthly charge per lamp	
	Midnight service	All-night service
Multiple lamps:		
25 watts	$0 90	$0 95
40 watts	1 15	1 25
50 watts	1 30	1 45
60 watts	1 55	1 70
*75 watts	1 80	2 00
*100 watts	2 20	2 50
*150 watts	2 80	3 20
*200 watts	3 10	3 75
*300 watts	3 70	4 40
*500 watts	4 30	5 40
Series lamps:		
60 candlepower	1 20	1 30
80 candlepower	1 50	1 65
*100 candlepower	1 65	1 85
*250 candlepower	2 80	3 20
*400 candlepower	3 40	4 05
*600 candlepower	3 90	4 80

*Includes a refractor, a diffusing globe, special highway reflector, or equivalent special reflector will be supplied on request. A deduction of $2.00 per year will be made for each lamp not equipped with refractor, diffusing globe or special reflector.

Rate (B). Arc Lamps, Luminous (Magnetite).

Pendent type	Monthly charge	
	Midnight service	All-night service
4 ampere arcs	$3 80	$4 60
6.6 ampere arcs	4 20	5 00

Special conditions.

(a) In case where consumer desires incandescent lamp service beyond midnight, but not all night, the additional charge for the service after midnight will be on the basis of $0.40 per month per rated kilowatt of lamp load connected for each hour burned after midnight.

(b) Rate (A) applies to installations of 10 or more lamps.

Where service to any consumer involves an installation of less than 10 lamps, the charges applicable will be those of Rate (A), increased by 10 per cent.

(c) The terms "All-night" "Moonlight" and "Midnight" service have the following meanings:

All-night service	4000 hours per year
Moonlight service	2240 hours per year
Midnight service	2000 hours per year

SCHEDULE C-1.

(Canceling C-1.)

General Heating, Cooking and Combination Service.

Applicable to general domestic and commercial heating, cooking and/or water heating service, and to combination lighting with heating, cooking and/or water heating service.

Territory.

Entire territory served.

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Rate.

(A) *Heating, Cooking and/or Water Heating Service.*

First 150 kilowatt hours per meter per month-- 3.5 cents per kilowatt hour
All over 150 kilowatt hours per meter per month-- 2.0 cents per kilowatt hour

(B) *Combination Lighting, with Heating, Cooking and/or Water Heating Service.*

(1) Applicable to residence, flats or apartments of eight rooms or less.

First 30 kilowatt hours per meter per month *
Next 150 kilowatt hours per meter per month 3.5 cents per kilowatt hour
All over 180 kilowatt hours per meter per month 2.0 cents per kilowatt hour

(2) Applicable to residence, flats, or apartments of nine rooms or more.

First 50 kilowatt hours per meter per month †
Next 150 kilowatt hours per meter per month 3.5 cents per kilowatt hour
All over 200 kilowatt hours per meter per month 2.0 cents per kilowatt hour

Minimum Charge.

First 7 kilowatts or less of heating, cooking and/or water heating capacity---- ----$3 per month

Over 7 kilowatts of heating, cooking and/or water heating capacity------- ----$0.50 per kilowatt per month

When the consumer signs a contract for service for a period of one year, the minimum charges will be made accumulative for the service year. The minimum charges are payable in monthly installments until such time as the accumulative energy charges equal the annual minimum charge.

Special Conditions.

(a) Service will normally be 220 volt three wire A.C.

(b) Minimum charges are based on the total active connected load of heating, cooking and water heating capacity which may be connected at any one time.

No additional minimum charge will be made for lighting service in case of combination service.

(c) Rate (B) applies only where the consumer installs and uses cooking, heating and/or water heating appliances other than lamp socket devices of at least 2 kilowatt capacity for residences, flats or apartments or eight rooms or less, and 5 kilowatts for residences, flats and apartments of nine rooms or more.

(d) Bathrooms, halls and cellars are not classified as rooms.

(e) Connected load will be taken as the name plate rating of all heating and cooking apparatus permanently connected and which may be connected at any one time, computed to the nearest one-tenth of a kilowatt and in no case less than 2 kilowatts. All equipment assumed as operating at 100 per cent power factor.

(f) Single-phase power service (5 horsepower or less) may be combined under this schedule, in which case each horsepower of connected load shall be considered equivalent to one kilowatt of connected load in determining the minimum charge.

SCHEDULE C-2.

(Cancels C-2.)

Commercial Heating and Cooking.

Applicable to commercial heating, cooking and/or water heating. This rate is optional with Schedule C-1.

Territory.

Entire territory served.

Rate.

The rate will be that provided in Schedule (P-1). In determining the size of blocks and minimum charges, one kilowatt of active connected load will be considered as one horsepower.

Special Conditions.

(1) Service will normally be 3-wire, alternating current 220 volt.

(2) Connected load will be taken as the name plate rating of all heating and cooking apparatus permanently connected and which may be connected at any one

*Charge for first 30 kilowatt hours of the effective lighting schedule.

†Charge for first 50 kilowatt hours of the effective lighting schedule.

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time, computed to nearest one-tenth of a kilowatt, and in no case less than 2 kilowatts. All equipment assumed as operating at 100 per cent power factor.

(3) Single-phase power service (5 horsepower or less) may be combined under this schedule, in which case each horsepower of connected load shall be considered equivalent to one kilowatt of connected load in determining the rate and minimum charge.

SCHEDULE C-3.

(Cancels Schedules C-4, P-8, P-9 and P-12.)

Combination Lighting and Power Service.

Applicable to combination lighting with cooking and/or power service where the connected load or use of power and/or cooking load is at least 25 per cent of the total load or use.

Territory.

Applicable within the city and county of San Francisco.

Rate.

Demand Charge.

First	25 kilowatts of monthly maximum demand	$1 60 per kilowatt
Next	50 kilowatts of monthly maximum demand	1 30 per kilowatt
All over	75 kilowatts of monthly maximum demand	1 00 per kilowatt

Energy Charge (To be added to Demand Charge).

First	1000 kilowatt hours per month	2.60 cents per kilowatt hour
Next	1500 kilowatt hours per month	2.10 cents per kilowatt hour
Next	3500 kilowatt hours per month	1.80 cents per kilowatt hour
All over	6000 kilowatt hours per month	1.60 cents per kilowatt hour

Minimum Charge.

The minimum-maximum demand charge will be not less than that based on 50 per cent of the maximum demand created during the preceding eleven months and in no case less than $16 per month.

Special Conditions.

(a) This schedule is exclusively a meter rate, the maximum demand being measured by demand meters or indicators to be furnished and installed by the company upon the consumer's premises, adjacent to or combined with watt-hour meter or meters which measure the monthly energy consumption.

The maximum demand in any month will be the average number of kilowatts indicated or recorded by the above meters in that 15-minute interval in which the consumption of electric energy hereunder is greater than in any other 15-minute interval in the month; provided, that in the case of hoists, elevators, welding machines, furnaces and other installations where the energy demand is intermittent, or subject to violent fluctuation, the company may base the consumer's maximum demand upon a 3-minute instead of a 15-minute interval.

Where the power installation does not exceed 50 horsepower the demand may be determined by instruments or test, as above, or at the option of the company the demand may be assumed to be 100 per cent of the rated capacity of the largest motor installed plus 60 per cent of the rated capacity of all additional motors and other energy-consuming devices installed.

SCHEDULE P-1.

(Canceling Schedules P-1, P-5 and P-10.)

General Power Service.

Applicable to general commercial and industrial power service and to commercial heating and cooking service and rectifier service. Alternating current service will be supplied at any standard voltage from 110 to 2200 volts, as may be requested by the consumer. D.C. service may be obtained when available at the voltage as available.

Territory.

Entire territory served.

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Rate. A.C. Service.

Horsepower of connected load	Rate per kilowatt hour for monthly consumption of			
	First 50 k.w.h. per h.p.	Next 50 k.w.h. per h.p.	Next 150 k.w.h. per h.p.	All over 250 k.w.h per h.p.
	Cents	Cents	Cents	Cents
2–9	4.0	2.1	1.3	.9
10–24	3.6	2.0	1.2	.9
25–49	3.1	1.9	1.1	.8
50–99	2.6	1.7	1.1	.7½
100–249	2.3	1.5	1.0	.7
250–499	2.1	1.3	.9	.65
500–999	2.0	1.2	.9	.6
1000–2499	1.9	1.1	.9	.6
2500 and over	1.8	1.0	.9	.6

Minimum Charge.

First 50 horsepower of connected load, $1 per horsepower, but in no case less than $2 per month.

All over 50 horsepower of connected load, 65 cents per horsepower per month.

When the primary use of power is seasonal, the minimum charge may, at the option of the consumer, be made accumulative over a 12-month period.

Direct Current Service.

D.C. service, when furnished, will be rendered under the above rates and minimum charges increased by 10 per cent. D.C. service may only be obtained where available.

Special Conditions.

(a) *Voltage*: This schedule of rates will apply to service rendered at any standard voltage, at the option of the consumer. All necessary transformers to obtain such voltage will be supplied, owned and maintained by the company.

(b) *Maximum Demand*: The above rates and minimum charges may, at the option of the consumer, be based on the horsepower of measured maximum demand instead of horsepower of connected load, providing the installation has a total connected capacity of at least 50 horsepower, in which case the horsepower of demand on which the rates and minimum charges will be based will not be less than 20 per cent of the connected load, but in no case shall the minimum be less than $50 per month.

The maximum demand in any month will be the average horsepower in-put (746 watts equivalent) indicated or recorded by instruments to be supplied, owned and maintained by the company and at the company's expense, upon the consumer's premises, adjacent to the watt-hour meters, in the 15-minute interval in which the consumption of electric energy is more than in any other 15-minute interval in the month, for installation of less than 750 horsepower, and a 30-minute interval for larger size installation, or at the option of the company the maximum demand may be determined by test.

In the case of hoists, elevators, welding machines, furnaces and other installations where the energy demand is intermittent or subject to violent fluctuations, the company may base the consumer's maximum demand upon a 5-minute interval instead of a 15 or 30-minute interval.

Demands for installations in excess of 250 horsepower of connected load occurring between the hours of 11 p.m. and 6 a.m. of the following day will not be considered in computing charges under this schedule.

(c) *Optional Rate for Larger Installations*: Any consumer may obtain the rates for a larger installation by guaranteeing the rates and minimum charges applicable to the larger installation.

(d) *Rectifier, Heating and Cooking Service*: Mercury arc rectifiers and commercial heating and cooking installations may obtain service under this schedule. For the purpose of determining rates and minimum charges, each kilowatt of connected load will be considered as equivalent to one horsepower.

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SCHEDULE P-2.

Intermittent Service.

Applicable to industrial service required intermittently throughout the year.

Territory.

Entire territory served.

Rate.

Demand charge—

First 10 horsepower of connected load_____$5 00 per horsepower per year
All over 10 horsepower of connected load_____ 3 50 per horsepower per year

Energy charge—

The energy charges are the rates without the minimum charges as set forth under Schedule P-1.

Special Conditions.

(A) Total charge—

The total charge is the sum of the demand and energy charges stated above.

(B) Payment of demand charge—

The demand charge is payable in five equal installments during the first five months after the date service is first rendered. The consumers may select, if satisfactory to the company, other months in which to pay the demand charges.

(C) Adjustment of bills—

At the end of each year's service period a consumer operating under this schedule and whose total charges for service for the past year would have amounted to less under Schedule P-1 will have the charges for this service adjusted to the lower charges.

SCHEDULE P-3.

(Canceling P-2 and P-3.)

Agricultural Power Service.

Applicable to general agricultural and reclamation service, including pumping, feed choppers, milking machines, heating for incubators, brooders, poultry house lighting and general farm use excluding domestic cooking and lighting service.

Territory.

Entire territory served.

Rate A.

Size of installation	Annual demand charge per h.p.*	Energy charge in addition to the demand charge			
		Rate per k.w.h for consumption per h.p. per year of			
		First 1000 k.w.h	Next 1000 k.w.h	Next 1000 k.w.h	All over 3000 k.w.h
		Cents	Cents	Cents	Cents
2-4	$6 60	1.6	1.2	.9	.7
5-14	6 00	1.4	1.1	.8	.7
15-49	5 40	1.2	1.0	.8	.7
50-99	4 50	1.1	.9	.75	.7
100-249	3 90	1.1	.9	.75	.7
250-499	3 75	1.05	.85	.75	.7
500-999	3 60	1.00	.85	.75	.7
1000-2499	3 50	1.00	.85	.75	.7
2500 and over	3 00	1.00	.85	.75	.7

*In no case will the total annual demand be less than $13.20.

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Rate B.—Optional rate.

Any consumer may select at his option the following rate instead of the demand and energy set forth above:

Horsepower of connected load	Annual minimum charge per h.p.*	Rate per kilowatt hour for consumption of				
		First 300 k.w.h. per h.p. per yr.	Next 700 k.w.h. per h.p. per yr.	Next 1000 k.w.h per h.p. per yr.	Next 1000 k.w.h per h.p. per yr.	All over 3000 k.w.h per h.p. per yr.
		Cents	Cents	Cents	Cents	Cents
2-4	$9 00	3.8	1.6	1.2	.9	.7
5-14	8 00	3.4	1.4	1.1	.8	.7
15-49	7 50	3.0	1.2	1.0	.8	.7
50-99	7 00	2.6	1.1	.9	.75	.7
100-249	6 75	2.4	1.1	.9	.75	.7
250-499	6 50	2.3	1.05	.85	.75	.7
500-999	6 25	2.2	1.00	.85	.75	.7
1000-2499	6 00	2.1	1.00	.85	.75	.7
2500 and over	6 00	2.0	1.00	.85	.75	.7

*In no case will the total minimum charge be less than $27 per year.

Special Conditions.

(*a*) Demand and minimum charges—

The annual demand charges (or minimum charges) of the rates set forth above are due and payable in six equal monthly installments with bills for energy used during the months of May to October, inclusive.

(*b*) Energy charges—

The energy charges of the rates set forth above shall apply to service rendered based on all regular meter readings taken on and after May 1st of any year and before May 1st of the succeeding year.

(*c*) Service commencing (or discontinued) after April 1st—

Any consumer whose service begins (or is discontinued) at a later date than April 1st of any year will be billed in accordance with the above rates modified as follows:

(1) Service commencing (or discontinued) on and after April 1st, but on or before September 30th—

(*a*) The demand charge (or minimum charge) is to be applicable only during that period from date service is first taken to September 30th at the rate of one-sixth of the annual demand charge (or minimum charge) per month.

(*b*) The sizes of the energy blocks of the rates are to be determined by multiplying the sizes of the blocks given in the rates by the following factor according to the month in which service commences (or is discontinued):

Month in which service commences or is discontinued.	Factor	
	New service	Discontinued service
April	1.0	.1
May	.9	.2
June	.8	.3
July	.7	.4
August	.6	.5
September	.5	.6

(2) Service commencing (or discontinued) on and after October 1st, but prior to April 1st of the following year—

The optional rate (B) only (but with no minimum charge) will apply to such service up to April 1st of the following year, however, on April 1st the consumer then will have the option of selecting either rate (A) or of continuing with the optional rate (B). The charges for this service will be determined as follows:

(*a*) No minimum charge to apply.

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b) The sizes of the energy blocks of the optional rate (B) are to be determined by the sizes as given in the optional rate (B) by the following factors according to the month in which service commences (or is discontinued):

Month in which service commences or is discontinued.	Factor	
	New service	Discontinued service
October	.4	.7
November	.3	.8
December	.2	.9
January	.1	1.0
February	.1	1.0
March	.1	1.0

d) Agricultural season—

Meters on all agricultural services will be read by the company between April st and April 10th of each year beginning with 1924 and the above rates will pply for that year for service rendered after that date on which the meters are read during the 10-day period.

e) Date of first demand or minimum payment—

The first payment of the annual demand charge (or annual minimum charge) ill be due and payable upon presentation of the bill for service rendered based a regular meter readings taken on and after May 1st.

f) Increase or decrease of load—

Consumers permanently increasing or decreasing their connected load will have ieir rates for the increased or decreased load adjusted in accordance with special ondition (*e*). Discontinued service is limited to installations permanently quitng and does not apply to installations shutting down for a few months or for ie balance of the season at the end of which time service will again be desired.

g) Guaranteeing rates for larger size installation—

Any consumer may obtain the rate for a larger installation by guaranteeing ie rates and demand charge (or minimum charge) of that larger installation.

h) Voltage—

When the company installs, owns and maintains the transformers the above ates apply to service rendered at 110, 220, or 440 volts under provisions of Rule ad Regulation No. 2 at the option of the consumer and the energy will be metered a the secondary (10w) side of the transformer.

When the consumer owns the transformers, service will be rendered at the stribution line voltage available and the service will be measured on the primary igh) side of the transformer.

i) Adjustment of bills—

Consumers operating on either Rate (A) or Rate (B) whose use in any one ear is less than 300 kilowatt hours per horsepower and who are receiving service nder the higher rate, will have their bills adjusted at the end of the agricultural eason to the lower of the two rates.

j) Credit for ownership of transformer by consumer—

Consumers operating installations having a connected load of 50 horsepower r over and owning the transformers supplying such installations will be allowed ie following credits:

Size of installation horsepower	Annual credit of connected load
50–99	$1 00 per horsepower
100–249	90 per horsepower
250–499	80 per horsepower
500–999	70 per horsepower
1000–2499	60 per horsepower
2500 and over	50 per horsepower

k) Selection of schedule—

The company will normally render agricultural service under Rate (A) unless e consumer advises the company to apply the optional rate (B).

l) Contracts—

The company may require a contract for service under this schedule for a eriod not to exceed three years when service is first rendered and thereafter om year to year.

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(*m*) Rates effective from February 20 to May 1, 1923—

Service rendered based on regular meter readings taken on or after February 20, 1923, and prior to May 1, 1923, will be billed for in accordance with the energy charges (but with no minimum or demand charges) of the above rates and will be included in the 1923 season.

SCHEDULE P-4.

(Canceling P-3 and P-4.)

Reclamation Power Service—

Applicable to general reclamation service. This rate for reclamation service is optional with Schedule P-3.

Territory.

Entire territory served.

Rate (A).

Rates applicable to that portion of the connected load operated:

Size of total installation	Annual demand charge per horsepower		Energy charge in addition to the demand charge			
			Rate per k.w.h. for consumptions per h.p. per year of			
	Company owns transformers	Consumer owns transformers	First 1000 k.w.h.	Next 1000 k.w.h.	Next 1000 k.w.h.	All over 3000 k.w.h.
			Cents	Cents	Cents	Cents
50–99	$4 50	$3 50	1.1	.9	.75	.7
100–249	3 90	3 00	1.1	.9	.75	.7
250–499	3 75	2 95	1.05	.85	.75	.7
500–999	3 60	2 90	1.00	.85	.75	.7
1000–2499	3 30	2 70	1.00	.85	.75	.7
2500 and over	3 00	2 50	1.00	.85	.75	.7

Rate (B).

Rates applicable to that portion of the connected load held only as a standby but not actually operated:

Size of total installation	Annual demand charge per horsepower		
	Company owns transformers	Consumer owns transformers	
50–99	$1 80	$0 80	If this additional installation is operated and any energy used, then the full demand and energy rates of Rate (A) will apply to this load for the 12 months period ending on the following Dec. 31st.
100–249	1 70	80	
250–499	1 60	80	
500–999	1 50	80	
1000–2499	1 40	80	
2500 and over	1 30	80	

Special Conditions.

(*a*) Demand charges—

The demand charges of rates (A) and (B) are due and payable in 12 equal monthly installments during the year from January 1st to December 31st of the same year.

(*b*) Energy charges—

The energy rates of Rate (A) shall apply to service rendered on and after January 1st of any year and before December 31st of the same year.

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c) Service commencing (or discontinued) after January 1st—

Any consumer whose service begins (or is discontinued) at a later date than January 1st of any year will be billed in accordance with the above rates modified as follows:

(1) Demand charge—

The demand charges of Rates (A) and (B) are applicable only during that period from date service is first taken to December 31st of the same year at the rate of one-twelfth of the annual demand charge per month.

(2) The sizes of the energy blocks of the Rate (A) are to be determined by multiplying the sizes of the blocks given in the Rate (A) by the following factor according to the month in which service commences or is discontinued:

Month in which service commences or is discontinued.	Factor New service	Factor Discontinued service
January	1.0	.1
February	.9	.2
March	.8	.3
April	.7	.4
May	.6	.5
June	.5	.6
July	.4	.7
August	.3	.8
September	.2	.9
October	.1	1.0
November	.1	1.0
December	.1	1.0

d) Season—

Meters on agricultural and reclamation service operating under this schedule will be read by the company between January 1st and January 10th of each year, beginning with 1924, and the above rates will apply for the year for service rendered after that date.

e) Date of first payment of demand charge—

The first payment of the annual demand charge will be due and payable upon presentation of the bill for service rendered based on regular meter readings taken on and after February 1st.

f) Increase or decrease of load—

Consumers permanently increasing or decreasing their connected load will have their rates for the increased or decreased load adjusted in accordance with Special Condition (*c*). Discontinued service is limited to installations permanently quitting and does not apply to installations shutting down for a few months or for the balance of the season at the end of which time service will again be desired.

g) Guaranteeing rates for larger size installations—

Any consumer may obtain the rate for a larger installation by guaranteeing the rate and demand charge of that larger installation.

h) Voltage—

When the company installs, owns and maintains the transformers, the above rates apply to service rendered at 110, 220 or 440 volts under the provisions of Rule and Regulation No. 2 at the option of the consumer.

When the consumer owns the transformers, service will be rendered at the distribution line voltage available.

i) Measurement of service—

When the company owns the transformers the energy will be measured on the secondary (low) side of the transformers.

When the consumer owns the transformer the energy will be measured on the primary (high) side of the transformers.

The unit energy rates as given above in Rate (A) apply whether the company or consumer owns the transformers.

j) Disconnecting switch—

The above rates contemplate that the service will be disconnected from the main line by the consumer during periods when the installation is not in operation provided the company installs a suitable disconnecting switch on the primary (high) side of the transformer for such purpose.

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Such a disconnecting switch will be owned, maintained and properly installed by the company together with necessary means and protection for its operation.

(*k*) Contracts—

The company may require a contract for service under this schedule for a period not to exceed three years when service is first rendered and thereafter from year to year.

(*l*) Service for 1923—

This rate will be applicable at the option of the consumer for the year commencing January 1, 1923.

SCHEDULE P-5.

(Canceling P-6.)

Wholesale Power Service.

Applicable to general power service supplied at a standard voltage of 2200 volts or over.

Territory.

Entire territory served except in Butte and Plumas counties.

Rate (A).

Service at 2200 volts up to and including 25,000 volts.

Demand charge—

First	200 kilowatt or less of maximum demand,	$300 per month.
Next	300 kilowatt of maximum demand--	$1 00 per kilowatt per month
Next	500 kilowatt of maximum demand--	75 per kilowatt per month
All over	1,000 kilowatt of maximum demand--	60 per kilowatt per month

Energy charge—

First	150 kilowatt hours per kilowatt per month---	.80¢ per kilowatt hour
Next	250 kilowatt hours per kilowatt per month---	.60¢ per kilowatt hour
All over	400 kilowatt hours per kilowatt per month---	.55¢ per kilowatt hour

Rate (B).

Service at line voltages in excess of 25,000 volts—

The rate is the same as that set forth under Rate (A) above decreased by 10 per cent.

Special Conditions.

(*a*) Total charge—

The total charge is the sum of the demand and energy charges given above.

(*b*) Voltage—

Service under Rate (A) will be supplied by the company at standard voltages of 2200 volts or more up to and including 25,000 volts as requested by consumer.

Service under Rate (B) will be supplied by the company from standard line voltages as available above 25,000 volts.

(*c*) Demand—

The maximum demand in any month will be the average kilowatt delivery of the 30-minute interval in which the consumption of electric energy is greater than in any other 30-minute interval in the month. The maximum demand on which the demand charge and energy block will be based will not be less than 50 per cent of the demand occurring during the eleven preceding months.

Any demand occurring between the hours of 11 p.m. and 6 a.m. of the following day will not be considered in determining the above demand charge.

(*d*) All voltages referred to in this schedule are nominal voltages.

SCHEDULE P-6.

Resale Power Service.

Applicable to electric service to other electric utilities and to municipalities for distribution and resale. Service to be supplied at standard voltages of 2200 volts or over.

Territory.

Entire territory served.

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(A).

ervice at 2200 volts up to and including lines of 25,000 volts.

1) Demand charge—

First	50 kilowatt or less of maximum demand,	$90 per month.
Next	150 kilowatts og maximum demand__	$1 50 per kilowatt per month
Next	300 kilowatts of maximum demand__	1 00 per kilowatt per month
Next	500 kilowatts of maximum demand__	75 per kilowatt per month
All over	1,000 kilowatts of maximum demand__	60 per kilowatt per month

plus

2) Energy charge—

First	150 kilowatt hours per kilowatt per month____	.80¢ per kilowatt hour
Next	250 kilowatt hours per kilowatt per month____	.60¢ per kilowatt hour
All over	400 kilowatt hours per kilowatt per month____	55¢ per kilowatt hour

(B).

ervice at line voltages in excess of 25,000 volts.

1) The rate is the same as that set forth under (A) above decreased by 10 cent.

ounts.

'he above rates (A) and (B) are subject to a special discount allowed to st in developing rural territory equal to 10 per cent times the ratio of the hasing companies' kilowatt hour sales for service rendered in rural (unincorated) territory to the total kilowatt hour sales. The discount to be applied any calendar year will be based on the previous year's sales of the resale utility.

cial Conditions.

a) Total charge—

The total charge is the sum of the demand and energy charges given above.

b) Voltage—

Service under Rate (A) will be supplied by the company at standard voltages f 2200 volts or more up to and including 25 kilovolt lines at the consumer's ption.

Service under Rate (B) will be supplied by the company at its standard line oltages as available above 25 kilovolts.

c) Demand—

The maximum demand in any month will be the average kilowatt delivery of the 0-minute interval in which the consumption of electric energy is greater than n any other 30-minute interval in the month. The maximum demand on which he demand charge and energy block will be based will not be less than 50 per ent of the demand occurring during the eleven preceding months.

Any demand occurring during the hours of 11 p.m. and 6 a.m. of the following day will not be considered in determining the above demand charge.

d) Combination of points of delivery—

Where service is rendered to a system at two or more points acceptable to he company the maximum demand on which the demand and energy charges will e based will be taken as the maximum simultaneous demand. The blocks of the lemand charges will be multiplied by the number of points at which service is aken.

e) Optional rate—

Service of less than 50 kilowatts demand, consumer may take service under P-1.

SCHEDULE P-7.

(Canceling Schedule P-7.)

ctro-Chemical and Electro-Metallurgical Service.

Applicable to service to electro-chemical and electro-metallurgical service supplied n distribution lines of 11,000 volts or over as available. This schedule contemes an average monthly power factor of at least 85 per cent.

ritory.

Applicable to the entire territory served except in San Mateo and the city and nty of San Francisco.

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Rate.

Average monthly power factor of 100 per cent—

First	200 kilowatts or less of maximum demand,	$875.00 per month.
Next	300 kilowatts of maximum demand—	$4 00 per kilowatt per month
Next	500 kilowatts of maximum demand—	3 75 per kilowatt per month
All over	1,000 kilowatts of maximum demand—	3 60 per kilowatt per month

Average monthly power factor less than 100 per cent—

When the average monthly power is less than 100 per cent of the above charges plus the following charges will apply:

3¢ per month per kilowatt of maximum demand for each 1 per cent that the average monthly power factor is less than 100 per cent to and including an average monthly power factor of 95 per cent plus.

4¢ per month per kilowatt of maximum demand for each 1 per cent that the average monthly power factor is less than 95 per cent to and including an average monthly power factor of 90 per cent plus.

6¢ per month per kilowatt of maximum demand for each 1 per cent that the average monthly power factor is less than 90 per cent to and including an average monthly power factor of 85 per cent.

Special Conditions.

(*a*) Voltages—

Service under this schedule will be supplied by the company at standard line voltage of 11,000 volts or more as available.

(*b*) Maximum demand—

The maximum demand in any month will be the average kilowatt delivery indicated or recorded by instruments to be supplied, owned and maintained by the company and at the expense of the company, of that 30-minute interval in which the consumption of electric energy is greater than in any other 30-minute interval in the month.

(*c*) Contracts—

The company may require a contract not to exceed three years for service under this schedule.

(*d*) Applicability—

This schedule is not an open schedule and service will be granted under it only at the option of the power company or on order of the Railroad Commission, but in no event will the schedule be granted where the consumer's monthly maximum demand is less than 200 kilowatts nor more than 5000 kilowatts, nor where the consumer's average monthly power factor is less than 85 per cent.

SCHEDULE P-8.

Service to X-ray Apparatus.

Territory.

Applicable to entire territory served.

Rate.

Where X-ray apparatus is separately served it shall be classed as power equipment and service will be rendered in accordance with the rates for general power service applying in the various territories, except that the horsepower (or kilowatt) minimum provision of any such rate shall be modified as provided below.

At the consumer's option, service to X-ray apparatus may be rendered at the lighting rate, in which case it may be combined (where physically practicable) on the same meter with regular lighting service; provided that the minimum provisions specified below will apply in all cases.

Minimum Charge.

Where the company finds it necessary to install any special equipment, other than the customary meter and service, in order to render service to an X-ray apparatus, the minimum monthly charge shall be 50 cents per kilowatt of X-ray capacity, or 50 cents per kilowatt of special transformer capacity required to serve same.

Where service to an X-ray apparatus does not require the installation of any special equipment, no horsepower (or kilowatt) minimum shall apply, and only the meter minimum specified in the rate used need be considered; provided, that in no case shall the minimum be less than 90 cents per month per meter.

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SCHEDULE P-9.

(Cancels Schedule P-13.)

Stand-by Auxiliary Service.

Applicable to stand-by or breakdown service supplied to consumers whose premises are regularly supplied with light or power from a privately owned source of supply; to auxiliary service supplied to consumers who at times take service (by means of a double-throw switch) from another public service company; and to other electric service where the company must stand ready at all times to supply electricity for light or power, but where the use of electric service is not of a usual, regular or continuous character. The maximum load served under this schedule is 1000 kilowatts.

Territory.

Applicable to the entire territory.

Minimum Charge.

For stand-by or auxiliary service rendered under this schedule the minimum charge per kilowatt of maximum load, either light or power, which the company agrees to stand ready to supply to the consumer, will be:

First	20 kilowatts of maximum load	$2 00 per kilowatt per month
Next	80 kilowatts of maximum load	1 50 per kilowatt per month
All over	100 kilowatts of maximum load	1 25 per kilowatt per month

In no case, however, will the minimum charge be less than $20 per month per service.

In case the consumer desires the company to stand ready to supply the entire connected load of the consumer's plant, or an isolated part thereof, then such maximum load will be estimated by the company, based on tests and other information available. In case the consumer desires the company to stand ready to supply a number of kilowatts less than the maximum demand of the entire consumer's plant, or an isolated part thereof, then the consumer shall, at his own expense, furnish and install a suitable circuit breaker enclosed in a steel box equipped with lock, all to be approved by and under the sole control of the company and the adjustment and operation of said circuit breaker to be in no way interfered with by the consumer. This circuit breaker shall be set to break the connection with the company's service in case the consumer's maximum demand shall at any time materially exceed the number of kilowatts which the company is obligated to stand ready to supply. If said circuit breaker should open, due to excess of consumer's demand above the number of kilowatts agreed on, the company will renew the connection upon due notice.

This schedule will be used in connection with such other rate schedule, applicable to the class of business if continuously supplied, as the consumer may select. The rate specified herein will, except as provided below, replace the minimum charge specified in such appropriate schedule, but the kilowatt-hour charge, demand charge, and all other conditions specified in said rate schedule (except nonapplicability to stand-by service) will remain unchanged.

Where the rate schedule applicable carries a higher minimum charge than the minimum specified herein, the former will be substituted for that provided herein.

Metering and billing for stand-by service will be kept separate and distinct from the metering and billing for regular exclusive service applied at the same location.

Special Conditions.

(1) This schedule will only apply where the consumer will sign a contract for at least one year.

SCHEDULE P-10.

Railway Service.

Applicable to service to electric railways.

Territory.

Applies to entire territory served.

Rate.

A.C. service	$0 85	per kilowatt hour
D.C. service	1 15	per kilowatt hour

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Minimum Charge.

The above rates assume an average monthly load factor of at least 35 per c
If the average monthly load factor is less than 35 per cent then the minimum cha
for that month will be an amount equal to that resulting from applying the ab
rate to the number of kilowatt hours necessary to give a 35 per cent load fac
based on the system simultaneous demand for the service rendered.

Special Conditions.

(*a*) The maximum demand in any month will be the average kilowatt delivery
the 30-minute interval in which the consumption of electric energy is greater tha
any other 30-minute interval in the month.

(*b*) If service is rendered at more than one point, the demands will be combi
except that D.C. and A.C. service will not be combined.

(*c*) D.C. service may be obtained by the consumer only when available or cov
by contract.

DECISION No. 11467.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WAT
COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING T
ISSUE OF FIRST MORTGAGE FIVE PER CENT GOLD BONDS OF T
AGGREGATE FACE VALUE OF TWENTY-TWO MILLION DOLLA

Application No. 8546.

Decided January 6, 1923.

McCutchen, Olney, Mannon and Greene, by *Allan P. Matthew*, for Applicant.

BRUNDIGE, *Commissioner.*

OPINION.

Spring Valley Water Company asks permission to issue and
$22,000,000 of 5 per cent 20-year bonds for the purpose of pay
indebtedness and the cost of extensions, additions and betterments.
also asks permission to execute an agreement defining the terms and c
ditions governing the issue of $22,000,000 of interim certificates, wh
interim certificates it desires to issue if temporary or definitive bo
will not be ready for delivery to the purchasers of such bonds when t
request such delivery. The interim certificates will be exchanged
bonds when the temporary or definitive bonds are executed by the co
pany and certified by the trustee.

Spring Valley Water Company has an authorized stock issue
$28,000,000, all of which is outstanding. On this stock, the compa
during the past five years has paid dividends at the rate of 5 per c
per annum.

The company has an authorized bonded debt of $28,000,000. Th
bonds are dated December 1, 1903, are payable December 1, 1923, a
bear interest at the rate of 4 per cent per annum. Of the $28,000,0
bonds in the amount of $17,859,000, are outstanding and are own
and held by the public. In addition, the company has outstandi
$2,500,000 of 6 per cent collateral trust notes due March 1, 1923, a
5 per cent notes in the amount of $750,000 due February 1, 1923.
is for the purpose of paying the outstanding bonds, collateral tr

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notes and other notes, and to secure funds to pay for extensions and betterments that the company desires to issue and sell $22,000,000 of bonds.

In the event that temporary or definitive bonds are not ready for delivery to the purchasers thereof when such delivery shall be requested, the company asks permission to issue interim certificates from time to time upon the request of the purchasers in an aggregate amount not exceeding $22,000,000. A copy of the agreement under which the interim certificates are to be issued has been filed in this proceeding and marked applicant's Exhibit No. 2. The interim certificates will be issued by the Spring Valley Water Company. If the company is unable to deliver on or before October 1, 1923, 5 per cent bonds in exchange for interim certificates, it agrees to pay the interim certificates at their face value together with interest at the rate of 5 per cent per annum from January 1, 1923, to and including September 30, 1923.

Applicant's proposed mortgage or deed of trust is now being prepared. It will later file with the Commission a supplemental application for permission to execute such instrument. The record shows, among other things, that the mortgage or deed of trust will be a lien on the properties which were offered for sale by the applicant to the city and county of San Francisco on January 14, 1921, and all operative properties acquired by applicant since March 1, 1920, and all of the operative properties to be hereafter acquired; and that the mortgage or deed of trust will provide for an authorized issue of $40,000,000 of 5 per cent 50-year gold bonds, of which $22,000,000 will be issued forthwith and the remaining $18,000,000 from time to time to finance the cost of additions and betterments to applicant's properties.

The $22,000,000 of bonds which applicant desires to issue have been sold to the Mercantile Trust Company of California, Security Trust and Savings Bank (Los Angeles) and First National Bank of Los Angeles. The purchasers agree to pay for $5,000,000 of bonds at the rate of $967.50, plus accrued interest to date of delivery, for each $1,000 bond, payment to be made in outstanding Spring Valley Water Company 4 per cent bonds or 6 per cent notes. For the remaining $17,000,000, the purchasers agree to pay $965, plus accrued interest to date of delivery, for each $1,000 face value of bonds, payment to be made for the $17,000,000 of bonds in United States gold coin or lawful money of the United States equivalent thereto, and/or 4 per cent bonds, and/or 6 per cent notes of the company at face value, plus accrued interest for such bonds and notes.

I herewith submit the following form of order:

ORDER.

Spring Valley Water Company having applied to the Railroad Commission for permission to issue $22,000,000 of 5 per cent bonds, or a

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like amount of interim certificates to be exchanged for such bonds, a
to execute indentures under which the bonds or interim certificates w
be issued, a public hearing having been held and the Commission bei
of the opinion that the money, property or labor to be procured
paid for by the issue of such bonds is reasonably required by applica
and that the expenditures herein authorized are not in whole or in pa
reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Spring Valley Water Company be and
is hereby authorized to issue $22,000,000 face value of 5 per cent 20-ye
bonds, or in lieu thereof, interim certificates of a like amount, su
interim certificates to be issued pursuant to the terms and conditio
of the agreement filed in this proceeding and marked applican
"Exhibit No. 2."

It is hereby further ordered, that Spring Valley Water Company
and it is hereby authorized to execute an agreement under which t
interim certificates are issuable, substantially in the same form as t
agreement filed in this proceeding and marked applicant's "Exhi
No. 2," provided,

> That the authority herein granted to execute such agreement
> for the purpose of this proceeding only, and is granted in so far
> this Commission has jurisdiction under the terms of the Pub
> Utilities Act, and is not intended as an approval of such agreeme
> as to such other legal requirements to which such agreement may
> subject.

The authority herein granted is subject to further conditions
follows:

(1) The bonds herein authorized to be issued, shall be sold by app
cant under the terms and conditions set forth in the agreement fil
in this proceeding and marked applicant's "Exhibit No. 1."

(2) None of the bonds herein authorized to be issued shall be del
ered until the Commission, by supplemental order, has authoriz
applicant to execute a mortgage or deed of trust securing the payme
of the bonds.

(3) Upon having received authority from the Commission to execu
a mortgage or deed of trust securing the payment of the bonds, app
cant may use such part of the proceeds as is necessary to pay or refu
the $750,000 of 5 per cent notes due February 1, 1923, the $2,500,000
6 per cent collateral trust notes due March 1, 1923, and the $17,859,0
of 4 per cent general mortgage bonds due December 1, 1923. Any p
ceeds not used to pay the indebtedness mentioned may be expended or
for such purposes as the Railroad Commission will hereafter authorize

(4) Spring Valley Water Company shall keep such record of t
issue and sale of the bonds herein authorized and of the dispositi
of the proceeds as will enable it to file, on or before the twenty-fifth d

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each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act and will expire on October 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of January, 1923.

DECISION No. 11468.

THE MATTER OF THE APPLICATION OF THOMAS HALBERT WILLIAMS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE EXPRESS AND FREIGHT SERVICE BETWEEN FONTANA, RIVERSIDE, ARLINGTON, CORONA, CHINO, ONTARIO, UPLAND, SAN ANTONIO HEIGHTS, WALNUT, OTTERBEIN, CLAREMONT AND POMONA AND LOS ANGELES.

Application No. 8438.

Decided January 6, 1923.

Knapp & Clewett, by *Mr. Clewett*, for Applicant.
T. Lucey, for Atchison, Topeka and Santa Fe Railway Company.
J. F. Squires and *R. E. Widdekind*, for Pacific Electric Railway Company.
E. Bennett, for Union Pacific System.
Clark Thompson, for American Railway Express Company.
W. N. Blair, for G. E. Galbreath (Chino Express and Transfer) and Hodge Transportation System.
Charles H. Tribit, Jr., for L. R. Kagarise (Keystone Express) and Fletcher and Tremble (Service Motor Express), all Protestants.

THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Los Angeles on the above entitled application for authority to operate freight and express service from poultry ranches in and about Corona, Chino, Ontario, Upland, Fontana, Riverside, Arlington, San Antonio Heights, Claremont, Pomona, Walnut, and Otterbein, to Los Angeles, the service proposed to be limited to transporting eggs of members of the Poultry Producers Association of Southern California, between members' ranches and the warehouse of the association in Los Angeles, and of poultry supplies from Los Angeles to the ranches of members.

It appears from the testimony that applicant has been operating such service for about five years and nine months, except during the time when he was in the navy in the World War, from which he did not return until after July 22, 1919, the date when chapter 280, Statutes of 1919, became effective. During his absence service was continued

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by Parker and Lichte under an arrangement by which they were purchase the business and resell it to applicant upon his return, unauthorized transaction.

Applicant serves at present about 185 consumers, the number increasing in the height of the season by about 25 or 30 additional produc The total shipments range between 250 and 1200 cases per week, depe ing upon seasonal production. The eggs are transported from ranches once or twice per week, depending upon production. method of handling is to operate three loop routes from Pomona return, and thence direct by Valley boulevard to Los Angeles. proposed rates per crate, which are substantially those at present effect, range from 21 cents from Pomona to 29 cents from Corona, from San Antonio Heights 30 cents the first half of the year and cents the second half of the calendar year.

Of the present carriers the American Railway Express Compa serves all of the points referred to in the application exc San Antonio Heights, Walnut and Otterbein, with pick-up service Pomona, Ontario, Corona and Riverside. Its rates are 46 cents case from Fontana, Corona, Arlington, and Riverside, as against ap cant's rates of 28, 29, 27 and 27 cents respectively, and 43 cents case from other points served by it which applicant proposes to se as against applicant's rates of 21 cents from Otterbein, Walnut Pomona, and 24 cents from Claremont, Upland, Ontario and Ch and the rates of 30 and 34 cents from San Antonio Heights previou referred to. The express rate on returned empties is 15 cents as aga applicant's return of empties free, being included in rates as sta The Keystone Express serves Pomona, Upland, Ontario, Claremont Walnut with a rate of 20 cents per case, empties 5 cents. Chino Exp and Transfer serves Chino and Pomona with a rate of 50 cents the first case, 25 cents for each additional case in the shipment, emp free. Murrietta Valley Auto Freight Line, serving Corona, has a r of 40 cents per 100 pounds on eggs in cases and also empty cases about 22 cents per case of eggs.

All of the rates herein referred to apply between Los Angeles points named, and all of the carriers except applicant, give a da service, with the possible exception of Sundays and holidays. Applic produced testimony to the effect that transporting eggs by specia equipped trucks such as he operates, results in less breakage, the fla of the eggs is not contaminated by other articles having a strong od and empties are returned promptly.

It appears from the testimony of applicant and the few produc who testified that a service once or twice a week, depending upon p duction and weather, is sufficiently frequent, as the smaller produc

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lo not accumulate a case of eggs in less time and it is not practicable o ship smaller quantities, although one witness engaged in the business, onsidered a daily service an advantage. Applicant's proposed pick-up nd delivery limits include a half-mile on each side of the roads trav-led, the incorporated limits of the various towns he wishes to serve, nd a half-mile beyond in all directions except that he would not serve o the north of Riverside city limits.

No reason appears why the proposed service should be limited to ıembers of the poultry association, or any other group or class, nor /hy the public, shipping eggs, should not be given any advantage which ıay be incident to the proposed service. Such authority as is granted y the order, will be only for operation as a common carrier.

Applicant did not show a public need for additional or different ervice from the towns above referred to as now having truck service /hich would justify his proposed service at those points. Present arriers provide pick-up service within the city limits of Pomona,)ntario, Claremont, Upland, and Walnut, and within a certain defined rea of Chino.

Hodge Transportation System service is not mentioned herein for he reason that its service is limited to lots of not less than three tons s the total of any individual shipment.

ORDER.

A public hearing having been held on the above entitled application, he matter being submitted and now ready for decision:

The Railroad Commission hereby certifies that public necessity and onvenience require that Thomas Halbert Williams operate a service or the transportation of eggs and poultry supplies between Los ngeles, Fontana, Riverside, Arlington, San Antonio Heights and)tterbein, and in a zone a half-mile outside of the city limits of Corona, hino, Ontario, Upland, Fontana, Riverside, Arlington, San Antonio leights, Claremont, Pomona, Walnut, and Otterbein and from the ollowing roads to be traveled, to wit: Garey avenue, Foothill boulevard, enth street, San Antonio avenue, Mountain avenue, Euclid avenue, entral avenue, Riverside drive, Rosena avenue, Colton avenue, Crest-nore road, River boulevard between Ontario and Riverside, Magnolia venue and Auburndale road, and in that part of Chino beyond the rea bounded by Walnut avenue, Riverside drive, Fifteenth street, hino avenue, Central avenue, Shaffer avenue, and East First street.

Nothing herein contained shall be construed to authorize service from orona, Chino, Ontario, Upland, Claremont, Pomona and Walnut; but pplicant may assemble in Pomona, eggs from territory he is herein uthorized to serve and transport them thence to Los Angeles via alley boulevard and Mission road.

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The authority herein contained is granted upon the following c
ditions:

1. The operative rights and privileges hereby established may n
be transferred, leased, sold nor assigned, nor the said service abandon
unless the written consent of the Railroad Commission thereto has fi
been procured.

2. No vehicle may be operated in said service unless said vehicle
owned by the applicant herein or is leased by said applicant under
contract or agreement satisfactory to the Railroad Commission.

3. *It is hereby ordered,* that applicant shall, within fifteen days fr
the date hereof, file with the Railroad Commission schedules and tari
covering said proposed service, which shall be in addition to propos
schedules and tariffs accompanying the application; shall show ea
point proposed to be served and quote rates to and from each su
point; and shall set forth the date upon which the operation of t
line hereby authorized will commence, which date shall be within thir
days from date hereof, unless time to begin operation is extended
formal supplemental order herein.

4. The authority herein contained shall not become effective until a
unless the above mentioned schedules and tariffs are filed within t
time herein limited.

Dated at San Francisco, California, this sixth day of January, 1923

Decision No. 11469.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIF
RAILROAD COMPANY, A CORPORATION, AND WESTERN REFRI
ERATOR LINE, A CORPORATION, FOR AN ORDER OF THE RA
ROAD COMMISSION OF THE STATE OF CALIFORNIA, (1) AUTHO
IZING SAID WESTERN REFRIGERATOR LINE TO ISSUE AND SE
ALL OF ITS CAPITAL STOCK, EXCEPT SUCH AS IS NECESSARY
QUALIFY DIRECTORS, TO THE WESTERN PACIFIC RAILROA
COMPANY; AND (2) AUTHORIZING THE WESTERN PACIF
RAILROAD COMPANY TO SUBSCRIBE FOR AND PURCHASE A
OF SAID CAPITAL STOCK.

Application No. 8478.

Decided January 6, 1923.

F. M. Angellotti and *James S. Moore, Jr.*, by *F. M. Angellotti*, for The Weste
Pacific Railroad Company.

Charles W. Dooling, for Western Refrigerator Line.

MARTIN, *Commissioner.*

OPINION.

Western Regrigerator Line, a corporation, asks permission to issu
1000 shares ($100,000 par value) of common stock and sell at par 9
shares to The Western Pacific Railroad Company, and five shares

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ts incorporators, their successors and assigns. The Western Pacific Railroad Company asks permission to purchase 995 shares of the Western Refrigerator Line stock.

The Western Refrigerator Line, a corporation, was organized on December 4, 1922, at the instance of and by The Western Pacific Railroad Company, for the purpose of facilitating along the line of said railroad, operations in supplying the necessary refrigerator and other cars for the transportation of perishable and other commodities, and of caring for and preserving the same in transit and otherwise. It is of record that the Western Refrigerator Line was organized with the understanding that all of its capital stock should be issued to and held and owned by The Western Pacific Railroad Company.

Refrigerator cars ordered by Western Pacific and now in process of construction, will be leased to the Western Refrigerator Line. The cash received from the sale of $100,000 of stock will be used by Western Refrigerator Line as working caiptal.

I believe that this application should be granted and herewith submit the following form or order:

ORDER.

Western Refrigerator Line, a corporation, having applied to the Railroad Commission for permission to issue $100,000 of common stock, and The Western Pacific Railroad Company having asked permission to purchase $99,500 of said stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be acquired through the issue of such stock is reasonably required by Western Refrigerator Line, and that this application should be granted, as herein provided; therefore,

It is hereby ordered, that Western Refrigerator Line be and it is hereby authorized to issue and sell, at not less than par, $100,000 of common stock.

The authority herein granted is subject to further conditions as follows:

1. Stock in the amount of $99,500 par value shall be sold to The Western Pacific Railroad Company, which is hereby permitted to purchase such stock.

2. Stock in the amount of $500 par value shall be sold to the original incorporators of the Western Refrigerator Line or their successors and assigns.

3. The proceeds obtained from the sale of the $100,000 of stock shall be used for working capital.

4. Western Refrigerator Line shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of

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the proceeds as will enable it to file, on or before the twenty-fifth da of each month, a verified report, as required by the Railroad Commis sion's General Order No. 24, which order, in so far as applicable, i made a part of this order.

5. The authority herein granted will become effective from the dat hereof, but such authority will expire on June 30, 1923.

The foregoing opinion and order are hereby approved and ordere filed as the opinion and order of the Railroad Commission of the Stat of California.

Dated at San Francisco, California, this sixth day of January, 1923.

DECISION No. 11471.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATE GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDE AUTHORIZING THE ISSUE AND SALE OF ITS PREFERRED STOC OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8498.

Decided January 8, 1923.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

San Diego Consolidated Gas and Electric Company in this applica tion asks permission to issue and sell at par $500,000 of 7 per cen cumulative preferred stock and to expend as a commission in connec tion with the sale thereof not exceeding 3½ per cent of the par valu of stock sold, and use the remaining proceeds to pay for new construc tion expenditures.

San Diego Consolidated Gas and Electric Company has an authorize stock issue of $20,000,000, divided into $10,000,000 of common an $10,000,000 of 7 per cent cumulative preferred. As of October 31 1922, $4,101,400 of preferred and $3,025,000 of common, making a tota of $7,126,400 of stock, was issued and is outstanding. The company funded debt, as of October 31, 1922, amounted to $9,930,000, and con sisted of the following:

First mortgage 5 per cent bonds	$5,130,000 0
First and refunding mortgage 5 per cent bonds	2,750,000 0
First and refunding mortgage 5 per cent bonds	1,500,000 0
Collateral trust 6 per cent notes	550,000 0

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In its "Exhibit No. 4," applicant reports the estimated cost of its nstruction expenditures from October 31, 1922, to December 31, 1923, $3,432,504. This estimated cost consists of the following:

	Last 2 months 1922	First 6 months 1923	Last 6 months 1923	Total 14 months
s production	$34,066	$523,600	$99,580	$657,246
s distribution	119,994	358,463	309,390	787,847
ctric production	177,894	315,762	44,530	538,186
ctric distribution	210,649	482,399	278,650	971,698
neral	25,549	225,002	205,326	455,877
am		13,650	8,000	21,650
Totals	$568,152	$1,918,876	$945,476	$3,432,504

Applicant reports that the proceeds realized from the sale of the ock and bonds heretofore authorized and the investment of moneys presented by applicant's reserve for accrued depreciation may enable to pay for $1,231,474.88 of the estimated expenditures. Deducting $1,231,474.88 from the $3,432,504 leaves a balance of $2,201,029.12 be financed through the issue of stock or bonds, or in some other nner. It is to finance part of these expenditures that applicant asks rmission to issue $500,000 of stock.

Applicant requests permission to sell its stock at not less than par, t pay a commission of 3½ per cent of par value to sell the stock. nding the use of the proceeds to pay construction expenditures, it sires to invest the proceeds in United States certificates of indebted-ss, or in United States liberty bonds, or in "called issues of bonds." e Commission will not permit applicant to invest any of the stock oceeds in "called issues of bonds."

I herewith submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied the Railroad Commission for permission to issue $500,000 of pre-red stock, a public hearing having been held and the Railroad mmission being of the opinion that the money, property or labor to procured or paid for by such issue is reasonably required for the rpose or purposes specified herein, and that the expenditures herein horized are not in whole or in part reasonably chargeable to operat-; expenses or to income;

It is hereby ordered, that San Diego Consolidated Gas and Electric mpany be and it is hereby authorized to issue and sell, for cash, at ; less than par, $500,000 of its 7 per cent cumulative preferred stock. The authority herein granted is subject to further conditions as lows:

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(1) Of the proceeds realized from the sale of the stock, an amoun equivalent to not more than 3½ per cent of the par value of the stoc sold, may be expended by applicant in payment of commissions an expenses incurred in connection with the sale of the stock.

(2) The remainder of the proceeds obtained from the sale of th stock herein authorized shall be used by applicant to finance in part th cost of such extensions, additions and betterments described in thi application as may be properly chargeable to capital accounts unde the uniform system of accounts prescribed or adopted by the Railroa Commission. Until so invested, the proceeds shall be deposited with bank or banks, or with a trust company or companies, or invested i United States certificates of indebtedness or liberty bonds.

(3) San Diego Consolidated Gas and Electric Company shall kee such record of the issue, sale and delivery of the stock herein autho ized and of the disposition of the proceeds as will enable it to fil on or before the twenty-fifth day of each month, a verified report a required by the Railroad Commission's General Order No. 24, whic order, in so far as applicable, is made a part of this order.

(4) The authority herein granted will become effective from th date hereof but will expire on October 1, 1923.

The foregoing opinion and order are hereby approved and ordere filed as the opinion and order of the Railroad Commission of the Stat of California.

Dated at San Francisco, California, this eighth day of January, 192

DECISION No. 11472.

IN THE MATTER OF THE APPLICATION OF SANTA PAULA HOM TELEPHONE COMPANY FOR AUTHORITY TO ISSUE AND SEL SEVEN THOUSAND DOLLARS FACE VALUE OF ITS FIRST MORT GAGE FIVE PER CENT GOLD BONDS.

Application No. 6350.

Decided January 8, 1923.

Max Thelen, for Applicant.
Arthur H. Blanchard and *H. Clyde Harms*, for Santa Paula Chamber of Commerce

BY THE COMMISSION.

OPINION.

Santa Paula Home Telephone Company asks permission to issu $7,000 face value of 5 per cent bonds and sell the same at not les than 85 per cent of their face value and accrued interest and use th proceeds to reimburse its treasury and for such other purposes as th Commission may authorize.

A hearing was held in this application by Examiner Satterwhite a Santa Paula.

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ıe Commission, by Decision No. 11035, dated September 29, 1922, pplication No. 6349, revised applicant's rates. It is believed that ·ates fixed by the Commission in that decision, including toll service miscellaneous revenues, will produce a gross income of $31,450. r deducting operating expenses, depreciation accruals, taxes and ellaneous revenue deductions, the company should, in the opinion ıe Commission, have a net income of about $5,400, or a net return)proximately 8.1 per cent on a valuation of $66,800.

)plicant has outstanding $60,000 of common stock. It has an orized bond issue of $40,000, of which $33,000 was outstanding on ·mber 31, 1921. On the same date, it owed in the form of bills ıble, the sum of $33,203.08, in the form of accounts payable to ·m corporations $22,748.37 and in the form of audited vouchers and ·s unpaid, the sum of $6,096.73. On December 31, 1921, the com- · was indebted to The Pacific Telephone and Telegraph Company ıe amount of $36,633.03.

is of record that applicant in 1916 expended for additions and ·rments the sum of $29,616.66, in 1917 the sum of $2,096.50, in the sum of $2,975.87 and in 1919 $3,063.86. The testimony shows none of these expenditures have been paid through the issue of ; or bonds. Part of the expenditures have apparently been paid of earnings and part out of borrowed moneys. It is not clear from testimony how much of the construction expenditures have been ıced through the investment of earnings. The order, therefore, not permit the company to reimburse its treasury but will require the proceeds obtained from the sale of the bonds be used to pay of the company's current indebtedness. The issue of the bonds in effect, result in a substitution of one form of indebtedness for her.

ORDER.

ınta Paula Home Telephone Company having applied to the Rail- Commission for permission to issue $7,000 of bonds, a public hear- having been held and the Commission being of the opinion that the ey, property or labor to be procured or paid for by such issue is onably required by applicant and that the expenditures herein ıorized are not in whole or in part reasonably chargeable to operat- expenses or to income;

is hereby ordered, that Santa Paula Home Telephone Company be it is hereby authorized to issue and sell for not less than 85 per cent ıeir face value and accrued interest $7,000 of 5 per cent bonds, and the proceeds to finance construction expenditures and through such ıcing pay in part current indebtedness.

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The authority herein granted is subject to further conditions follows:

(1) Santa Paula Home Telephone Company shall keep such rec of the issue and sale of the bonds herein authorized and of the disp tion of the proceeds as will enable it to file, on or before the twe fifth day of each month, a verified report as required by the Railr Commission's General Order No. 24, which order, in so far as applica is made a part of this order.

(2) The authority herein granted will become effective upon the p ment of the fee prescribed by section 57 of the Public Utilities Act, such authority will expire on July 1, 1923.

Dated at San Francisco, California, this eighth day of January, 19

DECISION No. 11481.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS A ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUB CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE RIGHTS AND PRIVILEGES GRANTED TO IT BY ORDINANCE 771 (NEW SERIES) OF THE COUNTY OF LOS ANGELES.

Application No. 8317.

Decided January 9, 1923.

Paul Overton, for Applicant.
Roy V. Reppy, for Southern California Edison Company.

BY THE COMMISSION.

OPINION.

This is an application by Los Angeles Gas and Electric Corpora for a certificate declaring that public convenience and necessity req the exercise by it of the rights and privileges to transmit and distrib electric energy for light, heat and power as set forth in the franc granted to it by the board of supervisors of Los Angeles County un Ordinance No. 771 (new series), dated August 21, 1922. A pu hearing was held in this matter before Examiner Williams in Angeles on November 10, 1922, at which time evidence was submit stipulations made and the matter taken under submission.

Applicant is now supplying electric energy to a few consumers in territory covered by this franchise. There are also certain port of the area covered by the franchise which are being served by South California Edison Company under the provisions of a franchise gra it prior to the issuance of Ordinance No. 771 (new series), for wh applicant herein requests a certificate. However, a joint stipulation Southern California Edison Company and Los Angeles Gas and Elec Corporation has been filed with the Commission setting forth that

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eles Gas and Electric Corporation requests, and that Southern fornia Edison Company does not object to, the issuance by the road Commission of a certificate declaring that public convenience necessity require the exercise by Los Angeles Gas and Electric poration of the rights and privileges granted by Ordinance No. 771 v series) of the county of Los Angeles, provided, however, that the ificate be limited to a certain portion of the franchise area as herein- described in the stipulation, and that applicant be not permitted arallel the lines of Southern California Edison Company within area. The stipulation provides as follows:

Applicant hereby stipulates that its application in this matter may be amended to exclude all that portion of the territory embraced in the franchise granted by Ordinance No. 771 (new series) of the county of Los Angeles, lying northerly following described line, to wit:

Commencing at the intersection of Santa Monica boulevard and Doheny drive; nce northeasterly and easterly along Santa Monica boulevard to Crescent ulevard to the boundary line of the city of Los Angeles; thence easterly follow- the said boundary line to La Brea avenue.

Southern California Edison Company hereby consents to the issuance by the oad Commission of the State of California of its order declaring that public con- nce and necessity require, and will require, the exercise by applicant of the hise granted to it under said ordinance in the territory embraced within said hise lying southerly from the above described line.

Applicant, Los Angeles Gas and Electric Corporation, hereby stipulates that l not, under the franchise granted by said Ordinance No. 771, within the terri- lescribed in the preceding paragraph, erect, construct or maintain, any electrical bution lines upon or along any street, avenue, or other public thoroughfare or of way, parallel with any such electrical distribution lines erected and main- l by Southern California Edison Company upon the same street, avenue, or public thoroughfare or right of way; provided, however, that should any on of said territory described in the preceding paragraph, be annexed to the of Los Angeles, and the city of Los Angeles thereupon or thereafter succeed to wnership and/or operation of said lines, then and in that event, this stipulation, e part of said applicant, not to parallel such lines, shall terminate and be of no er force and effect with respect to any such territory so annexed to said city of ngeles.

ie foregoing stipulation upon the part of the two utilities satisfac- y provides for the division of the service involved in the territory considered, and also sufficiently assures the prevention of possible re controversy relative to franchise rights of the parties.

ibsequent to the hearing of this matter, Los Angeles Gas and Elec- Corporation duly filed with the Commission, a stipulation under of January 3, 1923, that neither it nor its successors nor assigns d ever claim (except in eminent domain proceedings), before the oad Commission or any court or other public authority, any value he rights and privileges granted in said franchise under Ordinance 71 (new series), of the county of Los Angeles, adopted August 21, in excess of the actual amount paid therefor by Los Angeles Gas Electric Corporation in acquiring said franchise, which cost is d in said stipulation to be the sum of $246.40.

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It is hereby found that public convenience and necessity require exercise by Los Angeles Gas and Electric Corporation of the rig and privileges of the franchise granted it by Ordinance No. 771 (series), of the county of Los Angeles as restricted by the terms of preceding stipulation filed jointly by Los Angeles Gas and Elec Corporation and Southern California Edison Company.

ORDER.

Los Angeles Gas and Electric Corporation having applied to Railroad Commission for a certificate declaring that public convenie and necessity require the exercise of the rights and privileges gran under a certain franchise by Ordinance No. 771 (new series), of county of Los Angeles, a hearing having been held, copies of s franchise and a stipulation as to its claim for value thereof, and furt stipulation relative to the division of service with Southern Califor Edison Company in the territory involved, having been duly filed forms satisfactory to the Commission;

The Railroad Commission of the State of California hereby decla that public convenience and necessity require and will require exercise by Los Angeles Gas and Electric Corporation of the rights privileges granted under Ordinance No. 771 (new series), of the cou of Los Angeles subject to the following limitations:

Los Angeles Gas and Electric Corporation shall not distribute elec energy for light, heat or power purposes in that portion of the territ embraced by the franchise granted by Ordinance No. 771 (new seri of the county of Los Angeles lying northerly of the following line:

Commencing at the intersection of Santa Monica boulevard and Doheny dr thence northeasterly and easterly along Santa Monica boulevard to Crescent bo vard; thence south along Crescent boulevard to the boundary line of the city Los Angeles; thence easterly following the said boundary line to La Brea ave

Further, that Los Angeles Gas and Electric Corporation shall erect, construct or maintain any electrical distribution lines upon along any street, avenue, or other public thoroughfare or right of w parallel with any such electrical distribution lines erected and ma tained by Southern California Edison Company upon the same str avenue or other public thoroughfare or right of way; and subject such further provisions as are contained in the stipulation previou set forth.

Dated at San Francisco, California, this ninth day of January, 19

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DECISION No. 11483.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-RICHMOND FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK OF THE PAR VALUE OF EIGHT HUNDRED THOUSAND DOLLARS.

Application No. 5097.

Decided January 9, 1923.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 8144, dated September 24, 1920, as amended, authorized San Francisco-Richmond Ferry Company to issue and sell $800,000 of stock subject, among others, to the condition that an amount equal to not less than 85 per cent of the par value of the stock sold, be deposited with a bank or banks and expended only for such purposes as the Railroad Commission may authorize.

Applicant requests that it be permitted to withdraw from the funds on deposit with the Wells Fargo Nevada National Bank $100 for the purpose of paying the state corporation license tax, and $2,000 for the purpose of effecting a compromise settlement with Dora Mabelle Douglass. It appears that Dora Mabelle Douglass has demanded the cancellation of her stock subscription agreement covering the purchase of $10,000 of stock and the return of the cash paid the company. She paid $2,400 of the subscription price. In order to avoid extended litigation and payment of fees and expenses in connection therewith, the company has agreed to return to her $2,000, if permitted by the Commission, and cancel the subscription agreement. We believe that this compromise settlement should be carried out and the subscription agreement of Dora Mabelle Douglass canceled; therefore,

It is hereby ordered, that the order in Decision No. 8144, dated September 24, 1920, as amended, be and it is hereby further amended so as to permit San Francisco-Richmond Ferry Company to withdraw $2,100 from funds on deposit with Wells Fargo Nevada National Bank of San Francisco and to use said $2,100 for the purposes indicated in this order.

It is hereby further ordered, that the order in Decision No. 8144, dated September 24, 1920, as amended, shall remain in full force and effect except as modified by this fifth supplemental order.

Dated at San Francisco, California, this ninth day of January, 1923.

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DECISION No. 11484.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION O
ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIR
MENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911,
AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 19
BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILRO
UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIO
AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWE
AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided January 9, 1923.

BY THE COMMISSION.

TWENTY-FOURTH SUPPLEMENTAL ORDER.

SOUTHERN CALIFORNIA EDISON COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 49 Statutes of 1911, as amended by chapter 600, Statutes of 1915, vest with authority to grant additional time during which all overhead el tric lines, subject to the provisions of said act, may be reconstruct in accordance therewith, and is further charged with the duty of seei that all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of t overhead electric lines of the Santa Ana, Lindsay, Delano, Portervil Santa Paula, Ventura, Oxnard, Santa Barbara, Lancaster and Lank shim divisions of Southern California Edison Company and has fou a total of 47,642 infractions of said act, and certain other hazardo conditions which should be eliminated as shown in detail upon cop of the field reports of the inspection which have been furnished Sou ern California Edison Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will reasonably possible for Southern California Edison Company to remo said infractions and bring its entire syst in its Santa Ana, Lindsay, Delano, Porterville, Santa Paula, Ventu Oxnard, Santa Barbara, Lancaster and Lankershim divisions in compliance with said chapter 499, Statutes of 1911, as amended chapter 600, Statutes of 1915, before December 31, 1921;

It is hereby ordered, that the time during which Southern Californ Edison Company may reconstruct its overhead electric lines in Santa Ana, Lindsay, Delano, Porterville, Santa Paula, Ventu Oxnard, Santa Barbara, Lancaster and Lankershim divisions to co form with the provisions of chapter 499, Statutes of 1911, as amend by chapter 600, Statutes of 1915, be and the same is hereby extended December 31, 1923, provided that as to certain infractions listed "Technical, prior to October 22, 1911," upon field reports heretofo

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erred to, such time is hereby extended until such infractions can eliminated in the course of maintenance or construction work.

t is hereby further ordered, that before December 31, 1923, Southern ifornia Edison Company complete the reconstruction of its overhead tric lines in its Santa Ana, Lindsay, Delano, Porterville, Santa la, Ventura, Oxnard, Santa Barbara, Lancaster and Lankershim isions to eliminate all infractions of chapter 499, Statutes of 1911, amended by chapter 600, Statutes of 1915, listed as "Hazardous or nical since October 22, 1911" upon copies of field reports heretofore erred to and all hazardous conditions similarly listed.

t is hereby further ordered, that Southern California Edison Comy instruct its agents and employees in the entire territory covered its overhead lines, as to the requirements of chapter 499, Statutes 1911, as amended by chapter 600, Statutes of 1915, and take adequate os to eliminate completely infractions of said act upon its entire tem by December 31, 1923.

Dated at San Francisco, California, this ninth day of January, 1923.

DECISION No. 11485.

THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911, AS AMENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, BY ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD UTILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS AND MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER AND/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided January 9, 1923.

THE COMMISSION.

TWENTY-FIFTH SUPPLEMENTAL ORDER.

THE CAPITOLA COMPANY.

Whereas, the Railroad Commission is, by section 8 of chapter 499, tutes of 1911, as amended by chapter 600, Statutes of 1915, vested h authority to grant additional time during which all overhead tric lines subject to the provisions of said act may be reconstructed accordance therewith, and is further charged with the duty of seeing t all of the provisions of said act are properly enforced; and

Whereas, the Railroad Commission has made an inspection of the rhead electric lines of The Capitola Company and has found a total 69 infractions of said act, and certain other hazardous conditions ich should be eliminated as shown in detail upon copies of the field

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reports of the inspection which have been furnished The Capi Company or its agents by this Commission; and

Whereas, the Railroad Commission is of the opinion that it will reasonably possible for The Capitola Company to remove said infr tions and hazardous conditions and bring its entire system into com ance with said chapter 499, Statutes of 1911, as amended by chap 600, Statutes of 1915, before March 1, 1923;

It is hereby ordered, that the time during which The Capitola C pany may reconstruct its overhead electric lines to conform with provisions of chapter 499, Statutes of 1911, as amended by chapter 6 Statutes of 1915, be and the same is hereby extended to March 1, 19 provided that as to certain infractions listed as "Technical, prior October 22, 1911," upon copies of field reports heretofore referred such time is hereby extended until such infractions can be eliminated the course of maintenance or construction work.

It is hereby further ordered, that before March 1, 1923, The Capit Company complete the reconstruction of its overhead electric lines eliminate all infractions of chapter 499, Statutes of 1911, as amen by chapter 600, Statutes of 1915, listed as "Hazardous or techn since October 22, 1911," upon copies of field reports heretofore refer to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this ninth day of January, 19

DECISION No. 11487.

C. A. SCHLAGETER AND C. C. SCHLAGETER, DOING BUSINESS UNI THE NAME OF MARIPOSA AUTO STAGE COMPANY,

vs.

MADERA-YOSEMITE-BIG TREES AUTO COMPANY, A CORPORATI AND EDWIN T. HUFFMAN, MANAGER OF MADERA-YOSEMI BIG TREES AUTO COMPANY.

Case No. 1790.

Decided January 9, 1923.

Devlin and Brookman, by *Douglas Brookman*, and *L. A. Milburn*, for Complaina *Oliver Dibble*, for Defendants.

BY THE COMMISSION.

OPINION.

C. A. Schlageter and C. C. Schlageter, partners in business operating under the fictitious name of Mariposa Auto Stage Compa complain of defendants and allege that on or about July 1, 19 defendants commenced the operation of regular service in the carri by motor stage of passengers and parcels between Merced and Marip over the route followed by complainant between such communities; also commenced service to and from the intermediate point of Mor

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on said route; that such operation is done under the direction of
ıdant, Huffman; that neither defendant, Madera-Yosemite-Big
s Auto Company, or defendant, Huffman, has any right to con-
: such operation and that by such operation being continued com-
ıants are unlawfully deprived of business to which they are entitled
which would be obtained except for the alleged unlawful operation
:fendants. Complainants pray for an order of the Railroad Com-
on finding that defendants have no right to operate over the route
'red to and directing the discontinuance of such alleged illegal
ıtion.

:fendants filed their answer herein denying the material allegations
ıe complaint.

public hearing on this complaint was conducted by Examiner
ılford at Merced, the matter was duly submitted following brief
by defendant's counsel, and is now ready for decision.

appears from the undisputed testimony of witnesses for complain-
that defendant, Madera-Yosemite-Big Trees Auto Company, never
ılished any service between Merced and Mariposa as a local service,
' to defendant having secured a United States mail contract and
ıtion in connection with such contract having been commenced in
nonth of July, 1922. Mormon Bar is an intermediate point on the
: between Merced and Yosemite, and all the stages of defendant
)any when operating during the seasonal schedule pass through
ocality known as Mormon Bar. At one time, when the so-called
ay Valley route was being followed, in the years 1915 and 1916,
:s of defendant company operated through Mariposa, but upon the
ıletion of a new road, Mariposa was eliminated as an intermediate
; on the through route.

mplainants, operating under the authority conferred by a certifi-
of public convenience and necessity issued by the Railroad Com-
on on March 2, 1920, (Decision No. 7207 on Application No. 5052)
continuously operated a schedule, daily except Sunday, during
ntire year. No complaint appears against the character of service
ered or that any scheduled trips have been omitted.

:fendants since acquiring the mail contract have established a daily
service of one round trip per day, except Sundays, between
:ed and Mariposa, carrying the United States mail and also such
:ngers as may offer.

appears, and is so stipulated in this proceeding, that the operative
:s claimed by the Madera-Yosemite-Big Trees Auto Company are
: which were being operated in good faith on May 1, 1917, which
the date specified by the legislature in chapter 213, Laws of 1917,
at upon which operators in good faith were not required to secure

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a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. The record shows that this defendant was operating a seasonal service, and that on May 1, 1917, Merced was the westerly terminus and the route followed was the highway as same then existed and was completed, through Cathay Valley, into and through Mariposa and thence on to the Yosemite Valley. Later, as the highway was completed or as other roads offered a better route, the route was changed and although stages of the defendant company have always passed through Mormon Bar and still continue to do so, on the route to Yosemite Valley, the town of Mariposa was not on the direct route of defendant after a change was made in the road followed by defendant in the year 1918.

This defendant came under the jurisdiction of this Commission by reason of the statutory law, as an operator entitled to operate over a regular route and between fixed terimni by reason of having been operating in good faith, as of May 1, 1917, the defendant being classed as a seasonal operator between April and October 15th of each year. According to tariffs filed with the Railroad Commission, Mariposa was a point served on the route to Yosemite, the first reference to such tariff point being found in Local Passenger Tariff No. 1 filed by Yosemite Stage and Turnpike Company in connection with Madera-Yosemite-Big Trees Auto Company issued April 30, 1917, and effective May 1, 1917; Mariposa again appears as a tariff point in Local Passenger Tariff 1-A issued by Madera-Yosemite-Big Trees Auto Company in connection with Yosemite Stage and Turnpike Company, issued March 30, 1918, and effective May 1, 1918 (C. R. C. No. 4, canceling C. R. C. Nos. 1, 2 and 3); also in Local Passenger Tariff No. 2-A issued by Madera-Yosemite-Big Trees Auto Company, in connection with Yosemite Stage and Turnpike Company, issued April 29, 1919, and effective May 1, 1919 (C. R. C. No. 5, canceling C. R. C. No. 4); also in Local Passenger Tariff No. 5-A issued by Madera-Yosemite-Big Trees Auto Company in connection with Yosemite Stage and Turnpike Company issued April 15, 1922, and effective May 1, 1922 (C. R. C. No. 8, canceling C. R. C. No. 7), and in this tariff Mormon Bar appears as an intermediate point carrying the same rate as shown for Mariposa. No time schedules heretofore filed with this Commission have shown either Mariposa or Mormon Bar as intermediate points.

It is clear from the testimony that the operative rights of defendant, Madera-Yosemite-Big Trees Auto Company, comprise nothing more than were possessed when this company was required to place itself under the jurisdiction of the Commission by the statutory enactment (chapter

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3, Statutes of 1917) and such operative rights were seasonal in char-
ter covering the term between April and October of each year. To
pand such rights it would be necessary for the company to secure
certificate of public convenience and necessity and make the requisite
owing enabling the Commission to issue such declaration by its order.
ıe rights further covered the exact route then followed by the defend-
.t's operation, and it is apparent that defendant has, practically at
; own option, changed its route each season, or in the midst of a sea-
n, if roads were opened or completed offering a better mode of travel.
/ such action, and without the authorization of the Commission as to
ad diversions, the service formerly given through the town of Mari-
sa direct, became an intermittent and sporadic service, given on tele-
ıone call or otherwise, but the direct route was through Mormon Bar,
d such route is now operated. Defendant has no authority to serve
e community at Mariposa, by reason of unauthorized suspension of
rvice to and through such point, and the fact of the possession by
fendant of a contract for the carriage of United States mail does not
thorize defendant to conduct in connection with such contract an
-year passenger, express or parcel service, which is an additional and
ıauthorized service and not being conducted by defendant in good
ith, or at all, on May 1, 1917.

Defendant, Madera-Yosemite-Big Trees Auto Company, should
omptly, by appropriate application, clear up the present cloud on its
erative rights resulting from arbitrary and unauthorized changes in
e "regular route" as same was being operated when this defendant
ıs required by statutory enactment to submit its operation to the
risdiction of the Railroad Commission.

ORDER.

A public hearing having been held on the above entitled proceeding,
e matter having been duly submitted following brief of defendant's
ınsel, and the Commission now being fully advised;

It is hereby ordered, that defendant, Madera-Yosemite-Big Trees
ıto Company, a corporation, immediately cease the operation of an
to stage line as a common carrier of passengers, express, packages or
ight, locally between Merced and Mariposa and points intermediate
ereto. That local service between Merced and Mariposa, on the
rough stages of applicant is hereby prohibited, the requirements of
e public being satisfactorily served by the existing authorized stage
ıe between these points, and defendant having forfeited its right to
·ve Mariposa as an intermediate point in connection with its through
·vice between Merced and Yosemite Valley by reason of unauthorized
/ersion from the regular route existing as of May 1, 1917. The right

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to serve Mormon Bar as an intermediate point by through stages oper ated between Merced and the Yosemite Valley has been established b the evidence herein, and such point may continue to be served by th defendant in connection with its through stages and during the seasona operation between April and October of each year.

It is hereby further ordered, that this complaint in so far as it refer to defendant, Edwin T. Huffman, be and the same hereby is dismissed

Dated at San Francisco, California, this ninth day of January, 1923

DECISION No. 11488.

EDWIN H. WILLIAMS

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1652.

Decided January 9, 1923.

RAILROADS—DIMINUTION OF SCHEDULED PASSENGER SERVICE.—Held that the reduc tion of a scheduled service is justified by a finding that the operating revenu greatly exceeds the bare operating costs and that no prospect of addition traffic is apparent.

FRANCHISES—REVOCATION REQUESTED IF SERVICE FOUND TO JUSTIFY REDUCTIO OF PASSENGER SCHEDULES.—Held, that an order compelling the forfeiture of franchise, under such conditions, is in excess of the Commission's jurisdictio as prescribed by the statutory law.

Edwin H. Williams, in propria persona, Complainant.
E. J. Foulds and *J. E. Lyons,* for Defendant.
Morrison, Dunne and *Brobeck,* by *A. L. Whittle,* and *J. P. Potter,* for San Francisc Oakland Terminal Railways, Intervenor.

BY THE COMMISSION.

OPINION.

In this proceeding Edwin H. Williams complains of Southern Pacifi Company and objects to the discontinuance of certain passenger trai service operated between Oakland Pier and the stations of Fruitval and Stonehurst, in Alameda County, such train service being commonl known as the "Stonehurst Local" and consisting of eight round trip daily, and the substitution therefor of a service of two round trip daily. Complainant alleges that the service rendered is a part of th "Ferry and Electric Train Service" operated by defendant betwee San Francisco, Oakland and the district served in Stonehurst an Fruitvale; that no other passenger service can successfully compet with the service as heretofore furnished by defendant to this district that the service proposed to be partially discontinued has been operate for some fourteen years and that the community served has bee developed by the operation of such service, and that investment i improvements made in reliance upon a continuance of the service will in large part, be destroyed by the proposed discontinuance of a portio

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ıe scheduled service; that it is reasonable to assume a large increase ıture traffic by reason of the proposed establishment of large indus- plants in the district now served by the present train service; it is proposed to establish a freight service over the tracks hereto- used by the passenger service and that it will be necessary to inue the maintenance of the tracks to provide for said freight ice; that it is unjust and unfair to the public to allow defendant to erve its franchise by permitting a limited passenger operation; a dangerous grade crossing with the tracks of The Western Pacific road Company would be eliminated if the line were to be discon- ed and removed, and that such grade crossing should not be con- ed as a hazard of accident to permit defendant to enjoy a fran- e not exercised fully for the public benefit; and that much of the nse of operation of the "Stonehurst Local Service" is due to the ıre of defendant to install a modern and efficient service in lieu of alleged antiquated and inefficient steam train service. The prayer ıe complaint is for an order of the Railroad Commission requiring ntinuance of the "Stonehurst Local" service on a schedule of six- trains per day, or if such relief is not granted, that the defendant equired to discontinue all passenger service over said line and eit its franchise.

efendant, Southern Pacific Company, filed its answer herein deny- the material allegations of the complaint and alleging that the onehurst Local" can not be operated on a schedule other than two ıd trips per day except at a loss, and that the service heretofore ormed was not compensatory nor were the revenues received there- ı sufficient to cover the cost of performing the service.

public hearing on this complaint was conducted by Examiner dford at San Leandro, the matter was duly submitted and is now y for decision.

etitions signed by 331 residents and property owners in and about districts of Stonehurst, Elmhurst and Fitchburg protesting against reduction in service were filed with the complaint herein.

Witnesses for complainant testified as to the increase in population general growth of the district tributary to and served by the trains he "Stonehurst Local" line; that the service rendered by the Trac- division of the San Francisco-Oakland Terminal Railways to and n Oakland and a connection with the Key division service of such pany was unsatisfactory during the hours of peak travel; that perty values in the district had depreciated since the curtailment of "Stonehurst Local" service.

rom exhibits filed by defendant in this proceeding the following ı reflects passengers carried, revenue derived and expense of opera-

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tion during the period September to December, 1920, inclusive, and f
the month of July, 1921:

Month and year	Passengers carried	Reve
September, 1920	9,095	$487
October, 1920	10,637	539
November, 1920	10,161	492
December, 1920	9,849	493
July, 1921	8,368	406
Average	9,625	$484

In compiling the above statement all 6-cent cash fares collected
conductors were credited to the line and also a proportion on a milea
pro-rate of ticket sales and cash fares collected from through passenge
Two-thirds of suburban ticket sales to and from the station of Elmhu
are credited to the "Stonehurst Local" line trains and those of t
electric line, based on road miles.

The expense of operation, covering only items of actual operati
cost (including enginemen's wages, trainmen's wages, fuel oil, lo
motive lubricants, train supplies and expenses, car repairs, enginehou
expense, locomotive repairs and locomotive supplies), based on Augu
1921, fuel and labor prices amounts to $2,527 per month, or a defi
from operation of $2,043 per month over the average monthly reven
appearing in the above tabulation. No claim has been made for a
items of general expense, traffic expense, maintenance of way a
structures, station expense, taxes or interest on investment, only t
minimum expenses directly incurred in the operation of the passeng
train service being those included in the item of expense. It is appa
ent that the operation of the train service herein protested as to
curtailment is not compensatory and has been conducted at a mater
deficit over the amount received as revenue.

The San Francisco-Oakland Terminal Railways, intervenor here
presented testimony as to its ability to satisfactorily serve the local
by the street cars operating on its Traction division cars leaving Sto
hurst on a ten-minute headway, both east and westbound. Cars lea
Stonehurst at nine, twenty-nine and forty-nine minutes past the ho
arriving at Melrose, where Southern Pacific Electric trains can
secured for San Francisco at four, twenty-four and forty-four minu
past the hour. Transfers can also be made at Forty-first avenue a
Broadway to the Key division trains connecting with the Key Syst
ferry of intervenor to and from San Francisco. Mr. J. P. Pott
superintendent of transportation for intervenor, San Francisco-Oakla
Terminal Railways, testified that his company had the necessary fac
ties enabling adequate service to be rendered to all patrons who p
viously have used the "Stonehurst Local" trains that have been d
continued.

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addition to the service of the San Francisco-Oakland Terminal ays, the public served by the Southern Pacific station at Elmhurst the service of six trains in each direction to and from Oakland ian Francisco and the two round trips remaining on the "Stone- Local" lines.

e matter of reduction in train service on the "Stonehurst Local" vas originally brought to the attention of the Commission by an mal request on behalf of the defendant, and authority was there- issued for the reduction of the train service to a schedule of two l trips per day, the supporting data accompanying the informal est for diminution of service showing that the trains were being ated at a direct cost of approximately five and one-half times the nue that was derived from their operation, such fact indicating that ousiness originally handled by these trains had been diverted to r other trains of the defendant or to the service of its competitor, San Francisco-Oakland Terminal Railways.

'e have given careful consideration to all the evidence in this pro- ing and hereby find as a fact that the operation of the sixteen as per day as formerly scheduled by defendant on its "Stonehurst al" line is not justified by the patronage accorded such trains, it earing that the revenue derived from such operation meets but a tional portion of the direct cost of operation and allows nothing the expense of maintenance of way and structures, traffic expense, eral expense, taxes, nor any return on the investment devoted to this rice. It does not appear, from the evidence herein, that there are present or immediate future prospects of an increase in traffic on s line justifying the continuance of the former scheduled service, or t such continuance of service would result in revenue which would n approximate the direct expense necessarily incurred in the opera- n of such service. The evidence presented herein and of record, is clusive as to the expense of operation far exceeding the revenue reby derived. It further appears that other methods of transporta- n are available for the patrons of defendant heretofore using the ins on the "Stonehurst Local" line and that the competitive com- ny offering to furnish a portion of such substitute transportation is ling and able, if necessary, to so increase its facilities and service to satisfactorily care for any additional demand thereon which may occasioned by the diversion of this traffic to its lines.

Complainant has asked, in his prayer for relief, that if it be deter- ned herein that a reduction in the train service on the "Stonehurst al" line be permitted, that all passenger service on such line be ered discontinued and the franchise forfeited. An order compelling forfeiture of a franchise, under such conditions, would be in excess the Commission's jurisdiction as prescribed by the statutory law.

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ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this ninth day of January, 1923.

DECISION No. 11489.

IN THE MATTER OF THE APPLICATION OF KATE F. WATERMAN AND N. M. PETERSEN FOR AN ORDER AUTHORIZING THE SALE OF PROPERTIES USED TO SUPPLY WATER.

Application No. 8504.

Decided January 12, 1923.

Milo R. Robbins, for Applicants.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing Kate F. Waterman to sell and convey certain public utility water properties to N. M. Petersen.

A public hearing in the matter was held by Examiner Westover in San Francisco on January 10, 1923.

It appears that Kate F. Waterman is the owner of a small water system located near Boyes Springs, Sonoma County, which she operates under the firm name and style of Sonoma Highlands Water Company, and that N. M. Petersen owns and operates another water system in the immediate vicinity which is known as Mountain Avenue Water Works, and serves in an adjoining subdivision. Kate F. Waterman is no longer a resident of Boyes Springs, is not in a position to take an active part in the operation of the plant and desires to dispose of her water business and properties. For these reasons she has made arrangements to sell such properties to N. M. Petersen for $5,000 free and clear of all liens and encumbrances.

The record shows that the selling price of the properties involved in this application is based upon an appraisal made by the Commission's engineering department in connection with Application No. 2442, in which Mrs. Waterman asked the Commission to establish reasonable and uniform rates. From the decision in that proceeding, No. 3903, dated December 2, 1916, it appears that the Commission's engineers estimated the reproduction cost of the properties as $4,231 and the reproduction

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st less depreciation as $4,094. The testimony shows that a lot 50 · 150 feet in dimension with a well thereon useful for auxiliary pur-ses, in addition to the properties included in the appraisal in Appli-tion No. 2442, together with a few small extensions and additions ade since the date of the appraisal, are to be transferred as part of the stem. The value of this lot and well, which were not included in the praisal, is estimated at approximately $1,000.

As shown in the agreement of sale, a copy of which is filed with the tition as Exhibit "A," Mr. Petersen is to pay for the property $200 cash and on the balance of $4,800 is to apply the entire revenue ceived from the sale of water from the properties he is purchasing, ithout deduction for operating or maintenance costs, such payments be made monthly with interest at the rate of 4 per cent per annum, nal payment to be made on or before December 31, 1929. Mr. Petersen stified that his income from other sources would be sufficient to take are of operating and other charges of these properties during the eriod in which he is paying for them. His testimony further shows nat economies in operation may be effected by interconnecting and nsolidating the two systems which he will own.

It is thought that Mr. Petersen, being a resident of Boyes Springs, an give personal attention to the business and will be in a position better meet the public's demand than can Mrs. Waterman, a onresident.

We believe applicant's request should be granted as herein provided.

ORDER.

Kate F. Waterman having applied to the Railroad Commission for ermission to sell and convey a public utility water system to N. M. etersen, and N. M. Petersen having joined in the application, a public earing having been held and the Railroad Commission being of the pinion that the application should be granted, as herein provided;

It is hereby ordered, that Kate F. Waterman be and she is hereby uthorized to sell and convey to N. M. Petersen the public utility water usiness and properties described in the schedule hereto annexed and nade a part hereof, such sale to be made in accordance with the terms f the agreement of sale filed in this proceeding and marked Exhibit A."

The authority herein granted is subject to the following conditions:

(1) The authority herein granted to transfer properties shall not be nterpreted as a finding of value of said properties for the purpose of ixing rates or for any purpose other than this transfer.

(2) Within ten days after taking possession of the properties, N. M. etersen shall file with the Railroad Commission a statement showing he exact date upon which he took possession.

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(3) The authority herein granted will become effective upon the payment by N. M. Petersen of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25.

Dated at San Francisco, California, this twelfth day of January, 1923.

SCHEDULE OF PROPERTIES AUTHORIZED TO BE CONVEYED FROM KATE F. WATERMAN TO N. M. PETERSEN.

All that certain water system now owned by Kate F. Waterman located at Boyes Springs, Sonoma County, California, and known and designated as Sonoma Highlands Water Company, including the following operating property, to wit:

1 10" well; depth 200 feet, more or less.
1 Price piston pump, 4"x12".
1 Crocker-Wheeler motor, 5 h.p., 60-cyc., 220-volt, 3-phase, 1130 r.p.m.
1 belt, 3-ply rubber, 4"x27'.
1 oil circuit breaker, type H, 25-amp., 600-volt.
2950 feet, more or less, 3" W. I. dipped pipe.
5400 feet, more or less, 2" W. I. dipped pipe.
2 3" iron gate valves.
1 2" brass gate valve.
5 meters.
28 service cocks.
1 tank, 50,000 gallons capacity, pine with conical roof, with concrete and wood foundations.

Also, the land upon which said tank is situated, including a strip of land fifteen (15) feet wide, entirely encircling the same;

Also, those certain lots or parcels of land situate in the county of Sonoma, State of California, and particularly described as follows, to wit:

Lot No. Seven (7) in Block "C," and Lot No. Two (2) in Block "G," as said lots are shown and designated on that certain map entitled "Map of Subdivision No. 1 of Sonoma Highlands," filed in the office of the county recorder of the county of Sonoma, State of California, April 8, 1914;

Also, a right of way thirty (30) feet wide, fifteen (15) feet on each side of the pipe line now leading from said Lot No. Seven (7) in Block "C" said Subdivision No. 1 of Sonoma Highlands to the tank hereinbefore referred to.

DECISION NO. 11490.

IN THE MATTER OF THE APPLICATION OF GRAY WAREHOUSE COMPANY, A CORPORATION, FOR A CERTIFICATE AUTHORIZING IT TO ISSUE ITS SECURITIES.

Application No. 8532.

Decided January 12, 1923.

Drapeau, Orr and Gardner, by *H. F. Orr*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Gray Warehouse Company asks permission to issue 253 shares of its capital stock of the aggregate par value of $25,300 for the purpose of acquiring certain properties and business.

A public hearing was held before Examiner Williams in Los Angeles on January 5, 1923.

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ıe record shows that applicant was organized on or about November 1922, with an authorized capital stock of $50,000, divided into 500 es, of the par value of $100 each. The company reports that it ıds to engage in general storage, bean cleaning, walnut processing merchandise business. It alleges that its activities for the present be of a nonpublic utility nature, but that at some future time its ations may be extended and may come under the jurisdiction of the road Commission. For this reason applicant has filed this applica- for permission to issue stock. It has also filed a similar application the Commissioner of Corporations.

ray Warehouse Company proposes to acquire the property and ness now carried on by F. A. Shipley in Santa Paula, Ventura nty. It appears that F. A. Shipley on January 15, 1916, leased ain warehouse properties and equipment located in Santa Paula, ı Growers Warehouse Company for a period of twenty years, and anuary 1, 1922, leased certain other properties and equipment from ta Clara Valley Walnut Company, also located in Santa Paula and ıcent to those of Growers Warehouse Company, for a period of teen years. On December 9, 1922, he assigned these leases, which for a period of thirteen years, to Wade Gray for $15,000 in cash. le Gray, applicant's president, proposes to assign them, together ı certain real estate, equipment and merchandise, to applicant for 000 in stock. Testimony herein indicates that the two leases provide a monthly rental of approximately $125, and cover a two-story brick ehouse building, and a corrugated iron building located on spur ks, barley milling, bean cleaning, and walnut processing machinery, nant and platform scales, warehouse trucks and lighting apparatus. he real properties to be conveyed to applicant by Wade Gray con- of two lots located in Santa Paula, together with improvements eon consisting of a hay barn and garage and are estimated to have lue of $5,000. The merchandise turned over to the corporation con- of about $2,500 of agricultural products, and the equipment ıdes sundry furniture and fixtures and warehouse equipment and ɔlies, all of an estimated value of approximately $7,000.

appears that applicant's business will consist chiefly in the buying, ng and handling of walnuts and beans. It is reported that during F. A. Shipley received approximately $200,000 in buying, selling processing walnuts, $60,000 for cleaning and merchandising beans feed and $2,300 for storage. It is said that the net profits for the re business during 1922 amounted to about $18,000.

'e believe the application should be granted subject to the condition, ng others, that Gray Warehouse Company file with the Commission approval a stipulation duly authorized by its board of directors

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declaring that it, its successors and assigns, will never urge or ask the Railroad Commission or other public body having jurisdiction to include in a rate base such an amount of the stock herein authorized as may be issued to acquire, or as may be represented by the leases and nonpublic utility property to which reference is made in this decision.

ORDER.

Gray Warehouse Company, having applied to the Railroad Commission for permission to issue $25,300 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the petition should be granted, as herein provided;

It is hereby ordered, that Gray Warehouse Company be and it is hereby authorized to issue at not less than par, $25,300 of its capital stock.

The authority herein granted is subject to the following conditions:

(1) Three hundred dollars of the stock herein authorized shall be sold for cash at par to applicant's incorporators, their successors and assigns and the proceeds used for working capital.

(2) Twenty-five thousand dollars of the stock herein authorized may be delivered to Wade Gray in full payment of the leases, property, merchandise and equipment referred to in the foregoing opinion.

(3) Applicant shall file with the Railroad Commission for approval a stipulation duly authorized by its board of directors declaring that it, its successors and assigns, will never urge the Railroad Commission or other public body having jurisdiction to include in a rate base such an amount of the stock herein authorized as may be issued to acquire, or as may be represented by, the leases and nonpublic utility properties referred to in this application.

(4) The price at which applicant acquires the properties referred to herein shall not be binding on this Commission as a measure of value in fixing rates, or for any purpose other than the issue of stock herein authorized.

(5) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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6) The authority herein granted to issue stock will become effective
n the approval by the Commission of the stipulation referred to in
dition "3" of this order and will expire on June 15, 1923.

)ated at San Francisco, California, this twelfth day of January,
3.

DECISION No. 11491.

THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE FIVE MILLION FOUR HUNDRED NINETY THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO DEPOSIT AND PLEDGE SAID BONDS WITH THE MERCANTILE TRUST COMPANY (SAN FRANCISCO) UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF APPLICANT'S FIRST AND REFUNDING MORTGAGE DATED DECEMBER 1, 1920.

Application No. 8539.

Decided January 12, 1923.

P. Cutten, for Applicant.

RTIN, *Commissioner.*

OPINION.

Pacific Gas and Electric Company asks permission to issue and posit with the Mercantile Trust Company (San Francisco), trustee der its first and refunding mortgage, $5,490,000 face amount of its neral and refunding mortgage 5 per cent gold bonds due January 1, 42.

Under the authority granted by the Commission in Decision No. 8724, ted March 10, 1921 (Application No. 6387), applicant executed a first d refunding mortgage. In this mortgage it agrees that it will not ue and sell any additional bonds which it may have certified under general and refunding mortgage, but that all of such bonds will be posited after certification with the trustee under its first and refund- g mortgage, or exchanged for underlying bonds pursuant to the rms and provisions of the general and refunding mortgage.

It is of record that the company from January 1, 1922, to June 30, 22, made a net expenditure for additions and betterments in the sum $6,100,167.11. Because of such expenditures, the company may ll upon the trustee under the general and refunding mortgage to rtify the $5,490,000 of bonds which it desires permission to issue. The penditures made by applicant are reported in "Exhibit A" filed in is proceeding.

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The $5,490,000 of bonds, which applicant asks permission to issu will be deposited, as stated above, with the Mercantile Trust Compan (San Francisco), trustee under applicant's first and refunding mor gage and held by such trustee until the general and refunding mortgag is canceled and discharged of record. At that time the bonds will b canceled. It appears, therefore, that none of the bonds covered b this application will be sold to the public.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroa Commission for permission to issue and deposit $5,490,000 of bond a public hearing having been held and the Commission being of th opinion that this application should be granted and that the issue o the bonds is in accordance with the terms and provisions of section 5 of the Public Utilities Act;

It is hereby ordered, that Pacific Gas and Electric Company be an it is hereby authorized to issue and deposit with the Mercantile Trus Company (San Francisco), trustee under its first and refunding mor gage $5,490,000 face amount of its general and refunding mortgag 5 per cent gold bonds due January 1, 1942, for the purpose of securin in part the payment of bonds issued and sold under said first an refunding mortgage, said general and refunding mortgage bonds to b issued under and pursuant to the terms and provisions of the first an refunding mortgage dated December 1, 1920.

The authority herein granted is subject to further conditions a follows:

(1) Pacific Gas and Electric Company shall file with the Railroa Commission a report or reports as required by the Commission General Order No. 24, which order, in so far as applicable, is made part of this order.

(2) The authority herein granted will become effective on the dat hereof and will expire on May 15, 1923.

The foregoing opinion and order are hereby approved and ordere filed as the opinion and order of the Railroad Commission of the Stat of California.

Dated at San Francisco, California, this twelfth day of Januar 1923.

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Decision No. 11492.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE ITS COMMON STOCK IN THE MANNER, TO THE EXTENT AND FOR THE PURPOSE SPECIFIED HEREIN.

Application No. 8543.

Decided January 12, 1923.

SECURITIES—STOCK DIVIDEND—COMMISSION DOES NOT PASS ON FUTURE DIVIDEND PAYMENTS.—The Commission authorizes Pacific Gas and Electric Company to issue $693,231 of common stock to reimburse its treasury on account of earnings invested in working capital and thereafter distribute the stock as a dividend. In so doing the Commission says that it does not in any way pass on the amount of the dividend which applicant should pay on its common stock or in what manner the dividend payments should be made in the future.

W. P. Cutten, for Applicant.
MARTIN, *Commissioner*.

OPINION.

The Railroad Commission is asked to make an order authorizing Pacific Gas and Electric Company to capitalize permanently through the issue of common stock $693,231 of applicant's surplus. It is the intention of the company to issue such stock as fully paid and as a stock dividend in the manner and in accordance with the provision of the resolution of its board of directors filed in this proceeding and marked "Exhibit D."

Pacific Gas and Electric Company has an authorized stock issue of $160,000,000, divided into $79,900,000 of 6 per cent first preferred, $100,000 of 6 per cent original preferred and $80,000,000 of common. As of November 30, 1922, the company reported $85,368,644 of stock outstanding and in the hands of the public. This consists of $34,684,034 of common, $50,641,010 of first preferred and $43,600 of original preferred. In addition to $34,684,034 of common stock outstanding and in the hands of the public, the company reports outstanding common stock in the amount of $31,696,866.66 which is held by the San Francisco Gas and Electric Company and which has, by contract, waived its right to participate in common stock dividend. The San Francisco Gas and Electric Company is a subsidiary company of the Pacific Gas and Electric Company.

The company asks permission to issue the $693,231 of common stock to capitalize permanently earnings invested in working capital. It is of record that the company's accumulated unappropriated surplus increased from $4,152,801.07 on December 31, 1916, to $8,246,953.71 on November 30, 1922, the increase amounting to $4,094,152.64. This amount, according to the testimony of A. F. Hockenbeamer, second vice president and treasurer of the Pacific Gas and Electric Company, has

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been invested in working capital. During the period mentioned, the company has paid regularly 6 per cent dividend on its first and original preferred stocks and 5 per cent cash dividend on its common stock except during the last three months of 1917 and during 1918, when no dividends were paid on common stock. In addition to the cash dividend on the common stock, the company in 1922 paid a stock dividend equal in amount to 2 per cent on the outstanding common stock. The record shows that applicant's board of directors has increased the rate of dividend on the common stock to 8 per cent, of which 6 per cent is to be paid in cash and 2 per cent in stock. During 1922 the company earned more than enough to pay 8 per cent dividend on its common stock. The representatives of the company believe that it is a good policy to pay in stock part of the dividend on the common stock, for the reason that it will conserve the company's cash and amounts to selling the stock at par.

It should be understood that by granting this application the Commission does not in any way pass on the amount of the dividend which applicant should pay on its common stock or in what manner the dividend payments should be made.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue $693,231 par value of its common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by applicant through the issue of such stock is reasonably required by applicant;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue at not less than par $693,231 of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in working capital and distribute such stock pursuant to the terms of the resolution of applicant's board of directors filed in this proceeding and marked "Exhibit D."

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof and will expire on or before July 15, 1923.

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The foregoing opinion and order are hereby approved and ordered ed as the opinion and order of the Railroad Commission of the State California.

Dated at San Francisco, California, this twelfth day of January, 23.

DECISION No. 11493.

THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK.

Application No. 8552.

Decided January 12, 1923.

E. Peat, for Applicant.

:UNDIGE, *Commissioner*.

OPINION.

Southern California Gas Company asks permission to issue and sell not less than $90 per share 10,000 shares ($1,000,000 par value) of per cent cumulative preferred stock for the purpose of reimbursing s treasury on account of earnings invested in additions and betterents.

Applicant has an authorized stock issue of $10,000,000 divided into ,000,000 of 6 per cent cumulative preferred and $6,000,000 of comon. All of the common and $875,000 of the preferred stock was outanding on November 30, 1922. As of the same date, the company's nded debt amounted to $9,430,655.79 and consisted of the following:

rst mortgage 6 per cent bonds due 1950	$4,491,000 00
rst and refunding mortgage series "A" 7 per cent bonds due 1951	2,865,000 00
rst and refunding mortgage series "B" 5½ per cent bonds due 1952	2,000,000 00
ıion Oil contracts, 6 per cent, 1925 (payable $3,180 annually, July 1st)	9,540 00
estern Fuel Gas and Power contract, 1927 (payable $325 monthly, without interest)	15,115 79
ıtes payable (maturity over one year)	50,000 00
Total	$9,430,655 79

The company's current assets are in excess of its current liabilities. For the twelve months ending November 30, 1922, Southern California Gas Company reports operating revenues and other income, ɔerating expenses and other disbursements as follows:

ɔerating revenue		$5,599,858 19
ɔerating expenses:		
Natural gas purchased for resale	$1,917,241 49	
Maintenance	234,838 40	
Operation including general	1,380,255 70	
ıcollectible bills	16,351 22	
ıxes:		
Local	480,783 31	
Federal	137,877 56	
Total operating expense, uncollectible bills and taxes		4,167,347 68
Operating income, before depreciation		$1,432,510 51

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Other income:		
Rent	$19,160 13	
Interest	27,837 82	
Forfeited construction deposits	17,214 37	
Net income from oil wells, before depreciation	8,756 36	
		72,968
Gross income, before depreciation		$1,505,479
Deductions:		
Bond interest	$483,124 56	
Other interest	19,955 19	
Bond discount and expense	22,681 45	
		525,761
Net income, before depreciation		$979,717
Depreciation:		
Gas plant and equipment	$288,963 06	
Oil well operations	8,756 36	
		297,719
Net income		$681,998

Applicant since 1913 has financed its construction expenditure through the issue of bonds, notes and other evidences of indebtedness and through the investment of earnings represented by reserves and surplus. It reports that since the date (March 12, 1919) of Decision No. 6181 it expended for extensions, additions and betterments the sum of $1,689,784.30, against which no bonds or stock have been issued. It is for the purpose of permanently capitalizing part of these expenditures, and through such capitalization obtain funds to pay the cost of constructing additional extensions, additions and betterments that applicant desires permission to issue $1,000,000 of stock.

Applicant will endeavor to sell the stock through its own organization. It asks permission to expend an amount not exceeding $3.50 per share in payment of expenses incurred in connection with the selling of the stock. It is of record that all of the remaining proceeds will be used to pay part of the cost of extensions, additions and betterments set forth in Exhibit "B" filed in this proceeding. In that exhibit the company estimates its construction expenditures during 1923 at $3,100,000. The $3,100,000 is made up of the following items:

One 10,000,000-cubic foot holder, complete	$700,000 0
One 250,000-cubic foot compressor, complete	40,000 0
Sixteen-inch and 12-inch line from Hill street to Beverly (to reinforce existing facilities to serve Wilshire and Santa Monica), 9½ miles	156,000 0
Twelve-inch line from plant No. 1 to plant No. 3	75,000 0
Mains, services, meters, etc.	1,600,000 0
Store building	450,000 0
Miscellaneous reinforcing lines	79,000 0
Total	$3,100,000 0

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I herewith submit the following form of order:

ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue $1,000,000 of 6 per cent cumulative preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Gas Company be and it is hereby authorized to issue for the purpose of reimbursing its treasury on account of earnings expended for extensions, additions and betterments $1,000,000 of its 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

(1) The stock herein authorized shall be sold by applicant for not less than ninety per cent of its par value.

(2) Of the proceeds realized from the sale of the stock, an amount equivalent to not more than $3.50 per share of the stock sold may be expended by applicant in payment of commissions and expenses incurred in connection with the sale of the stock.

(3) The remainder of the proceeds obtained from the sale of the stock and such portion of the $3.50 referred to in condition (2) of this order as may not be needed to pay commissions and expenses for selling the stock shall be used by applicant to pay in part the cost of such extensions, additions and betterments described in Exhibit "B" filed in this proceeding as may be properly chargeable to capital account under the uniform system of accounts prescribed by the Railroad Commission.

(4) Southern California Gas Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted will become effective on the date hereof but will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of January, 1923.

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DECISION No. 11494.

IN THE MATTER OF THE APPLICATION OF J. C. REYNOLDS TO SELL AND LAKE COUNTY AUTOMOBILE TRANSPORTATION COMPANY TO PURCHASE, PASSENGER AND BAGGAGE SERVICE BETWEEN LAKEPORT, VIA UPPER LAKE, BARTLETT LANDING AND BARTLETT SPRINGS, LAKE COUNTY, CALIFORNIA.

Application No. 8522.

Decided January 12, 1923.

BY THE COMMISSION.

ORDER.

In the above entitled application J. C. Reynolds has filed a joint application with Lake County Automobile Transportation Company in which applicants petition the Railroad Commission for an order authorizing Reynolds to sell and the corporation to purchase a certain automobile stage line alleged to be operated between Lakeport and Bartlett Springs via Bartlett Landing.

The operative right herein sought to be transferred was obtained by J. C. Reynolds under Decision No. 7246 in Application No. 3733, dated March 11, 1920. This certificate of public convenience and necessity was granted by *ex parte* order upon application of J. C. Reynolds in which he proposed to operate a gasoline launch between Lakeport and Bartlett Landing and an automobile passenger stage line between Bartlett Landing and Bartlett Springs, Lake County, California.

It now appears that the road between Bartlett Landing and Bartlett Springs is not a public highway as defined in section 1, subsection "d" of chapter 213, Statutes of 1917, and amendments thereto, but is in effect and has been since prior to the granting of the certificate to J. C. Reynolds a private toll road, and accordingly, one over which this Commission has no power, under the provisions of the above numbered statutory enactment to grant a certificate of public convenience and necessity. Furthermore, no certificate of public convenience and necessity is required, under the provisions of chapter 213, Statutes of 1917, and amendments thereto, nor the Public Utilities Act, for the operation of a boat or boats engaged in the transportation of passengers or property for compensation over the inland waters of this state.

In view of the foregoing, no certificate of public convenience and necessity was required by applicant, nor could one be granted by the Railroad Commission. It further appears that sometime prior to the filing of the application herein to transfer, said J. C. Reynolds abandoned the operation of a gasoline launch between Lakeport and Bartlett Landing and operated his automobile stages from Bartlett Springs to Upper Lake, via Bartlett Landing, such operation in so far as it was conducted between Bartlett Landing and Upper Lake being over

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blic highway not covered by a certificate issued by this Commission accordance with the provisions of chapter 213, Statutes of 1917, as ended, and accordingly, such operation by said J. C. Reynolds was violation of the provisions of the above numbered statutory enact-nt.

n view of the foregoing, there being no certificate of public con-nience and necessity to transfer, we are of the opinion that the above itled application should be dismissed.

Good cause appearing:

t is hereby ordered, that the above entitled application be and the ne hereby is dismissed.

Dated at San Francisco, California, this twelfth day of January, 23.

DECISION No. 11501.

THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER APPROVING A PROPOSED RECLASSIFICATION OF ITS CAPITAL STOCK, AND AUTHORIZING THE ISSUANCE AND SALE OF NINETY-FIVE THOUSAND SHARES OF SEVEN PER CENT CUMULATIVE NONPARTICIPATING PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 8032.

Decided January 12, 1923.

THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Southern California Edison Company has entered into an agreement h H. E. Huntington, the owner of $12,029,900 of the company's ond preferred 5 per cent stock, to redeem such stock at a total cost to company of $9,453,322. By Decision No. 10748, dated July 21, 22, the Commission authorized the Southern California Edison Com-ny to issue and sell, at not less than par, $9,500,000 of 7 per cent mulative nonparticipating preferred stock and to use $6,008,422 of proceeds to retire, in part, the company's outstanding second pre-red stock.

By Decision No. 10757, dated July 21, 1922, the Commission author-d the company to use $3,444,900 obtained from the sale of common ck, to make up the balance necessary to retire the second preferred ck.

In a supplemental petition filed on December 30, 1922, in the above titled matter, the company reports that it has used $5,406,370.26 of $6,008,422; and $3,398,873.06 of the $3,444,900 to retire second eferred stock. The total paid to H. E. Huntington amounts to

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$8,805,243.32, leaving a balance of $648,078.68 due him under his agree ment with the company covering the redemption of the second preferre stock.

The company asks the Commission to modify Decision No. 10748 an Decision No. 10757 so as to permit the company to pay the whole or an part of the balance necessary to retire the second preferred stock ou of the proceeds obtained or to be obtained from the sale of both th 7 per cent preferred and common stock, or of either of said stock.

By Decision No. 11278, dated November 24, 1922, the Commissio authorized the company to exchange all or part of $4,161,000 of th then unsold 7 per cent preferred stock authorized by Decision No 10748, for outstanding 7 per cent debentures on a par for par, o better, basis.

In the supplemental petition filed on December 30, 1922, in the abov entitled matter, the company asks permission to use the proceed obtained or to be obtained from the sale of its 7 per cent preferre and/or common stock, the issue of which heretofore has been authorize by the Commission, to reimburse itself for the retirement of all or an part of the 7 per cent debentures that are not exchanged for preferre stock.

The company now has outstanding $5,945,900 of its 7 per cent debe tures maturing annually in the amount of $1,000,000 on January 15t of each of the years to 1928, inclusive. The debentures are callable a prices ranging from 101 to 105 and accrued interest, the call pric depending upon the time intervening between the date upon which th debentures are called for redemption and their maturity date.

The Commission has considered applicant's request and believes tha it should be authorized to use the proceeds from the sale of its 7 pe cent preferred and/or common stock to retire its second preferre stock or reimburse itself for the retirement of all or any part of i 7 per cent debentures that are not exchanged for preferred stock, pro vided that such debentures are retired at par or less; therefore,

It is hereby ordered, that the orders in Applications Nos. 2743, 479 5312, 6426, 7373, 7840 and 8032 be and they are hereby modified so a to permit Southern California Edison Company to use the proceed obtained from the sale of both its 7 per cent preferred stock and i common stock, or either of them, to retire its outstanding second pr ferred stock or to use such proceeds to reimburse its treasury on accou of moneys expended to retire at par or less, such outstanding 7 per ce gold debenture bonds as are not exchanged for 7 per cent preferre stock, pursuant to Decision No. 11278, dated November 24, 1922.

It is hereby further ordered, that the orders in decisions in Applic tions Nos. 2743, 4790, 5312, 6426, 7373, 7840 and 8032 shall remain

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ıll force and effect, except as modified by this fourth supplemental :der.

Dated at San Francisco, California, this twelfth day of January,)23.

DECISION No. 11505.

N THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A SPUR TRACK AT GRADE ACROSS J STREET, BETWEEN EIGHTH AND NINTH STREETS, IN THE CITY OF MARYSVILLE, COUNTY OF YUBA, STATE OF CALIFORNIA.

Application No. 7732.

Decided January 13, 1923.

AILROAD GRADE CROSSING—ILLEGALLY INSTALLED.—Commission can not condone acts of this kind, whether with or without the knowledge of a carrier's executive officers. Illegal crossing ordered removed.

'. M. Singer and *W. B. Herrin*, for Applicant.

'm. P. Rich, City Attorney of Marysville, and *J. O. Wanzer*, City Manager of Marysville, for the City of Marysville.

ay Manwell, for certain property owners.

ichard Belcher, for certain property owners.

Y THE COMMISSION.

OPINION.

This is an application filed by Southern Pacific Company for permission to construct a spur track at grade across J street, near Ninth treet, in the city of Marysville.

A public hearing was held on this application at Marysville, Novemer 23, 1922, before Examiner Satterwhite.

A spur track on which the proposed crossing is located is to serve ıe fruit packing plant of Virden Packing Company, located in the wo blocks bounded by K, J, Sixth and Eighth streets.

Southern Pacific Company, the evidence indicates, filed this appliation through its general officers in San Francisco pursuant to request rom its superintendent at Sacramento, but after the application was led it was ascertained that the track was already installed and in peration without the knowledge, it is stated, of the officials of the outhern Pacific Company in its general offices. After it was found hat the track was installed, it was thought that by closing J street etween Eighth and Ninth streets the objection to the hazardous ondition of the track as laid would be overcome and an application 'as made to the city of Marysville to vacate this portion of the street.

At the point of the proposed crossing J street is unimproved, being either paved nor graveled and the roadway consisting of little more han wheel tracks. The proposed crossing is located approximately inety feet south of applicant's Knights Landing branch track, located

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in the center of Ninth street, upon a fill approximately elev above the proposed crossing so that there is a grade of about per cent descending from the branch line track in Ninth street proposed crossing. This high fill cuts off all view of train mo over the proposed crossing for travelers approaching from the until they have reached the top of the levee in Ninth street, wher is a somewhat increased obstruction to view on the west bec trees and brush. The view of the crossing approaching from th is practically unobscured. There is little vehicular traffic a street at the crossing, the average for twelve days from Octo to 26, 1922, being approximately six vehicles per day (appl Exhibit No. 1). Train movement is also light, there being perh average of one switching movement a day, with two switchings during the fruit season. Each switching may involve several ments over the crossing.

Our engineer testified that in his judgment the average dr an automobile would have difficulty in handling his car on th grade of approach to the north of the crossing, particularly af street has been paved. This point is important, for the futur be considered, and in this case is probably more important th immediate present.

The city of Marysville stated that it had furnished the Packing Company with the site for the cannery served by th track involved in this crossing. The city attorney also stated as vacation of J street, between Eighth and Ninth streets, that wl definite action had actually been taken, the city of Marysvill not intend to close any portion of J street.

It is plain from the evidence that the crossing at grade involved was deliberately installed without the consent of this mission, in violation of section 43 of the Public Utilities Act. V for Southern Pacific Company, its assistant division engin Sacramento, stated that he had been directed by his superi superintendent at Sacramento, to install the track across J stre that both he and the superintendent knew that this was in viola the law. Under this circumstance the results of denial of this a tion rest squarely on the applicant and the fact that the tr already in service merits no consideration. This Commission c condone acts of this kind whether with or without the knowledg carrier's executive officers. In this case, however, the denial application will be rather expensive, either if applicant does with benefits of serving the packing plant or if it moves the track to a location, as hereinafter mentioned, and no action will theref commenced against the applicant and its agents.

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Applicant made practically no showing that public convenience and necessity justified the installation of the proposed crossing. It also appears that the packing plant is served by another railroad, so that if the crossing herein is removed it will not be without rail service.

Taking all of the evidence into consideration, it appears that the crossing should not be authorized in the proposed location. It appears, however, that a very much safer crossing could be obtained south of the location at which it is actually constructed and described in the application and that the application should be denied without prejudice.

ORDER.

Southern Pacific Company having applied to the Commission for permission to install a spur track at grade across Ninth street near J street in the city of Marysville, a public hearing having been held, the matter having been submitted, and it appearing that the application should be denied without prejudice;

It is hereby ordered, that the application herein be and it is hereby denied without prejudice, and

It is hereby further ordered, that applicant forthwith abolish the grade crossing illegally established in the location described in this application by removing its track from said J street.

Dated at San Francisco, California, this thirteenth day of January, 1923.

DECISION No. 11507.

IN THE MATTER OF THE APPLICATION OF HODGE TRANSPORTATION SYSTEM, A CORPORATION, FOR AUTHORITY TO ISSUE PREFERRED STOCK.

Application No. 8406.

Decided January 16, 1923.

Devlin and Brookman, by *Douglas Brookman*, for Applicant.

BY THE COMMISSION.

OPINION.

Hodge Transportation System, a corporation, in this application, as amended at the hearing, asks permission to issue $250,000 of 7 per cent cumulative preferred stock. It desires authority to sell forthwith $100,000 of the stock and to sell the remainder from time to time as authorized by supplemental order or orders.

A hearing was had in this matter before Examiner Williams at Los Angeles.

Applicant has an authorized stock issue of $250,000 divided into 2500 shares of $100 each. Of its authorized stock, $163,100 has been issued

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and is outstanding. Proceedings have been instituted to amend appl cant's articles of incorporation so as to provide for an authorized stoc issue of $500,000, divided into $250,000 of common and $250,000 of per cent preferred.

By Decision No. 10296, dated April 12, 1922, the Commissio authorized applicant to operate a motor freight service over eleve separate specified routes between various points in southern California These routes are said to have an aggregate mileage of 960. As of Octo ber 31, 1922, applicant owned 30 trucks and 28 trailers and extra bodi and racks—all costing $183,655.23 (applicant's "Exhibit 5"). Th balance due on the equipment, according to the testimony, amounts t $73,503.58. To pay for some of the equipment, applicant borrowe $25,000 from the Citizens Trust and Savings Bank of Los Angeles.

During 1922, the Commission found it necessary to grant temporar permits to transport fresh fruits and vegetables to canneries at Ontari Riverside, Hemet, Elsinore and Fallbrook, to several truck operator because the Hodge Transportation System and other authorized carrier had not sufficient equipment to handle the traffic offered.

The officers of the Hodge Transportation System are endeavoring t place the corporation in a position so that it can acquire additiona equipment. They propose that the corporation issue and sell stock a this time to pay indebtedness, and later, sell additional stock to pur chase necessary equipment and additional land for applicant's termina in Los Angeles, and for the construction of improvements thereon.

ORDER.

Hodge Transportation System, a corporation, having applied to th Railroad Commission for permission to issue $250,000 of 7 per cen preferred stock and forthwith sell $100,000 of said stock, a publi hearing having been held and the Commission being of the opinio that the money, property or labor to be procured or paid for by th issue and sale of the stock herein authorized is reasonably required b applicant and that this application should be granted as herei provided;

It is hereby ordered, that Hodge Transportation System be and it hereby authorized to issue $250,000 of 7 per cent preferred stock.

The authority herein granted is subject to the following conditions

(1) Of the stock herein authorized to be issued, $100,000 par valu shall be sold so as to net applicant not less than 85 per cent of i par value and the remainder of the stock ($150,000) may be sol only at such price as the Commission may hereafter authorize by sup plemental order or orders.

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(2) The proceeds realized from the sale of $100,000 of stock shall be ed by applicant to pay the $25,000 note due the Citizens Trust and vings Bank, to pay amounts due on automobile contracts and other rrent. indebtedness. The Commission will by supplemental order dicate the purposes for which the proceeds from the $150,000 of ock may be expended.

(3) Hodge Transportation System shall keep such record of the ue, sale and delivery of the stock herein authorized and of the sposition of the proceeds as will enable it to file on or before the enty-fifth day of each month a verified report as required by the ilroad Commission's General Order No. 24, which order, in so far as plicable, is made a part of this order.

(4) The authority herein granted will become effective upon the ng with the Commission of a certified copy of applicant's amended icles of incorporation, but such authority will expire on September 1, 23.

Dated at San Francisco, California, this sixteenth day of January, 23.

DECISION NO. 11508.

THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILGES UNDER FRANCHISES WHICH APPLICANT HAS SECURED FROM THE CITIES OF MONTEBELLO AND LOS ANGELES AND FROM THE COUNTY OF SAN BERNARDINO.

Application No. 8309.

Decided January 16, 1923.

Roy M. Edwards and *A. F. Bridge*, for Applicant.
s. J. Reynolds, for Southern California Gas Company.

THE COMMISSION.

OPINION.

This is an application by Southern Counties Gas Company of ifornia for an order declaring that public convenience and necessity uire the exercise by it of the rights and privileges of three distinct nchises granted it by the board of supervisors of San Bernardino unty, the board of harbor commissioners of the city of Los Angeles, l by the board of trustees of the city of Montebello. A hearing was d in these matters in Los Angeles on November 29, 1922, before aminer Williams, at which time certain stipulations were made, testiny taken and the matter thereupon submitted. For the sake of conience each of these franchises will be considered individually under ropriate captions.

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(1) San Bernardino County Franchise (Ordinance No. 177):

Applicant has been for a considerable period of time supplying gas service to its consumers in the cities of Chino, Ontario and Upland in the county of San Bernardino under franchises granted it by those cities and subject to certificates of public convenience and necessity issued by the Railroad Commission. Because of the demand for gas service by the inhabitants of the district immediately adjacent to the above mentioned cities, but outside of their corporate limits, applicant procured a franchise under Ordinance No. 177, granted by the board of supervisors of the county of San Bernardino. However, through inadvertence, applicant failed to apply promptly to the Railroad Commission for a certificate of public convenience and necessity to exercise the rights of said franchise.

At the time of the acquisition of this franchise Southern Counties Gas Company was the only utility engaged in supplying gas service to that portion of San Bernardino County lying west of Cucamonga avenue. Subsequently, however, Southern California Gas Company, a corporation engaged in the transmission and distribution of gas for domestic and commercial purposes, constructed a gas transmission line in San Bernardino County from a point east of Cucamonga avenue to its gas plant in Colton, this being done under the provisions of Ordinance No. 185, granted by the board of supervisors of San Bernardino County to Southern California Gas Company on March 17, 1919. Southern California Gas Company is now the only utility engaged in supplying gas to inhabitants of that portion of San Bernardino County lying east of Cucamonga avenue.

Southern Counties Gas Company, applicant herein, and Southern California Gas Company both hold franchises granted by San Bernardino County for the service of gas within the territory involved by this proceeding. However, to prevent improper competition between these utilities, a stipulation has been filed with the Railroad Commission providing for a division of the service in San Bernardino County. By the terms of this stipulation Southern Counties Gas Company consents to the issuance of a limited certificate, providing for the sale of gas by it only within territory lying west of Cucamonga avenue, and Southern California Gas Company consents to the issuance of an order by the Railroad Commission that it shall never sell gas within the territory west of Cucamonga avenue, but may construct pipe lines for the purpose of collecting and transmitting gas therein. This stipulation as filed provides as follows:

"It is hereby stipulated and agreed by and between the parties hereto as follows:

1. The Southern Counties Gas Company of California hereby consents to the issuance of an order by the Railroad Commission of California certifying and declaring that public convenience and necessity require that the exercise by Southern Counties Gas Company of California of the rights, privileges and franchises granted

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) it by Ordinance No. 177, county of San Bernardino, be restricted in so far only s the sale of gas is concerned to that portion of the territory covered by said rdinance lying west of the westerly line of Cucamonga avenue, and northerly and outherly prolongation thereof.

2. The Southern California Gas Company hereby consents to the issuance of an rder by the Railroad Commission to the effect that the Southern California Gas ompany shall never sell gas under its existing franchise within certain territory escribed in said Ordinance No. 177, lying west of the westerly line of Cucamonga .venue, and the northerly and southerly prolongation thereof; but may lay and main- ain pipe lines within said territory for the purpose of collecting and transmitting gas nerein.

3. That the rights and privileges of each of the parties hereto under each of their espective franchises, as before mentioned, shall remain in full force and effect, except s limited by the provisions of this stipulation and agreement."

This agreement upon the part of the two utilities sufficiently assures he prevention of future controversy relative to franchise rights of the wo utilities and satisfactorily provides for the service of gas for heat, ight and power purposes now being rendered by Southern Counties Gas Company to the inhabitants of San Bernardino County herein onsidered.

There has been duly filed with the Railroad Commission since the earing of this matter a copy of a resolution by the board of directors f Southern Counties Gas Company under date of October 20, 1922, tipulating that neither that company nor its successors nor assigns would ever claim before the Railroad Commission or any court or other public body a value for the rights and privileges granted by said ranchise under Ordinance No. 177 of the county of San Bernardino, n excess of the actual cost to Southern Counties Gas Company of cquiring said franchise, which cost is stated in said stipulation to be he sum of $100.

2) City of Los Angeles Franchise—Ordinance No. 38383 (New Series):

In February, 1916, applicant acquired all of the gas properties of the Long Beach Consolidated Gas Company. These properties included a gas distributing system which had been built in the San Pedro harbor district, a portion of the city of Los Angeles. Applicant's predecessors in interest were operating said gas distributing system in San Pedro for several years prior to October 10, 1911, under the provisions of the constitutional franchise granted by article XI, section 19, of the constitution of the State of California. Applicant was authorized by Decision No. 3360, volume 10, page 190, Opinions and Orders of the Railroad Commission of California, to purchase the system and franchises of Long Beach Consolidated Gas Company and to exercise all of the franchise rights formerly owned by said company.

During the early part of 1918 applicant made further extensions of its gas distribution system in the San Pedro harbor district principally for the purpose of supplying certain industrial consumers engaged in

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ship building. Applicant contended that it was entitled to extend its system under the terms of the constitutional franchise it then held. However, the board of harbor commissioners of the city of Los Angeles demanded that applicant obtain from them a special franchise for the extension and maintenance of its pipe lines in the harbor district. This franchise was granted by Ordinance No. 38383 (new series) under date of July 27, 1918.

Applicant alleges that it is now engaged in furnishing gas for heat, light and power purposes within the territory covered by aforementioned franchise, that no other utility is engaged in the rendering of such service and that public convenience and necessity require the exercise by it of the rights of said franchise. Evidence in the proceeding indicates this to be a fact. Southern Counties Gas Company has in this and other instances failed to promptly apply to the Commission for a certificate of public convenience and necessity, as required by the Public Utilities Act, prior to exercising franchise rights.

There has been duly filed with the Railroad Commission since the hearing of this matter a copy of a resolution of the board of directors of Southern Counties Gas Company under date of October 20, 1922, stipulating that neither that company nor its successors nor assigns would ever claim before the Railroad Commission or any court or other public body a value for the rights and privileges granted by said franchise under Ordinance No. 38383 (new series) of the city of Los Angeles, in excess of the actual cost to Southern Counties Gas Company of acquiring said franchise, which cost is stated in said stipulation to be the sum of $100.

(3) City of Montebello Franchise—Ordinance No. 58:

This portion of this application requests a certificate declaring that public convenience and necessity require the exercise by Southern Counties Gas Company of the rights and privileges of a franchise granted it by the board of trustees of the city of Montebello, under Ordinance No. 58, dated March 18, 1922.

Applicant has heretofore been supplying gas to the inhabitants of the city of Montebello under a franchise granted by Ordinance No. 23, issued by the board of trustees of the city of Monterey Park, which city formerly included a territory now comprising the city of Montebello. Some time ago the inhabitants of Montebello voted to disincorporate from the city of Monterey Park and incorporated the city of Montebello. In order to extend certain of its existing mains applicant acquired from the present city of Montebello a franchise covering certain additional territory in the city of Montebello not covered by the previously granted franchise from the city of Monterey Park.

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nt alleges that it is the only utility supplying gas for heat, power purposes to the inhabitants of the city of Montebello, public convenience and necessity require the exercise of the privileges granted by the franchise of the city of Montebello linance No. 58. The evidence in this matter indicates this ct.

as been duly filed with the Railroad Commission since the this matter a copy of a resolution of the board of directors rn Counties Gas Company under date of October 20, 1922, that neither that company nor its successors nor assigns r claim before the Railroad Commission or any court or other dy a value for the rights and privileges granted in said under Ordinance No. 58 of the city of Montebello, in excess ıal cost to said Southern Counties Gas Company of acquiring hise, which cost is stated in said stipulation to be the sum

reby found as a fact that public convenience and necessity e exercise by Southern Counties Gas Company of California hts and privileges of the franchises granted by: Ordinance f the county of San Bernardino, Ordinance No. 38383 (new the city of Los Angeles, and Ordinance No. 58 of the city of).

ORDER.

n Counties Gas Company of California having applied to the Commission for a certificate declaring that public convenience sity require the exercise by it of the rights and privileges following franchises: (1) Ordinance No. 177 of the county rnardino, (2) Ordinance No. 38383 (new series), city of Los nd (3) Ordinance No. 58 of the city of Montebello; a hearing en held, copies of said franchises and stipulations as to the value thereof, and a further stipulation relative to the terri- served under the franchise from the county of San Ber- ıving been duly filed in forms satisfactory to the Commission: lroad Commission of the State of California hereby declares ic convenience and necessity require and will require the Southern Counties Gas Company of California of the fran- s and privileges granted by the following ordinances:

linance No. 177 of the county of San Bernardino except as

Counties Gas Company of California shall not distribute or sell natural, mixed gas within the territory described in said Ordinance No. 177 the westerly line of Cucamonga avenue, and the northerly and southerly thereof. As indicated upon the map attached to the joint stipulation ıthern California and Southern Counties Gas Companies in this pro- er date of October 16, 1922.

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(2) Ordinance No. 38383 (new series) of the city of Los Angeles.

(3) Ordinance No. 58 of the city of Montebello.

Dated at San Francisco, California, this sixteenth day of January, 1923.

DECISION No. 11512.

IN THE MATTER OF THE APPLICATION OF THE WINNEMUCCA WATER AND LIGHT COMPANY FOR PERMISSION TO ISSUE TWO HUNDRED THOUSAND DOLLARS IN BONDS.

Application No. 8503.

Decided January 16, 1923.

CALIFORNIA CORPORATION IS PUBLIC UTILITY ALTHOUGH OPERATING OUTSIDE STATE.—The Commission held that a corporation organized under the laws of this state, doing business outside the state, is a public utility and can not issue bonds without permission of the Commission.

Heller, Ehrman, White and McAuliffe and *H. Warren*, by *S. S. Stevens*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Winnemucca Water and Light Company asks the Railroad Commission to make its order authorizing it to issue and sell $115,000 of 7 per cent 15-year bonds secured by a mortgage of its properties.

A public hearing was held in San Francisco on December 29, 1922.

Winnemucca Water and Light Company was organized on or about October 31, 1900, under the laws of the State of California. It has an authorized capital stock of $100,000 divided into 1000 shares of the par value of $100 each, all of which is reported outstanding. The application shows that the company is engaged in the business of supplying light, water and power in the city of Winnemucca, Nevada. For the reason that applicant has been organized under the laws of this state, it has applied to this Commission for permission to issue its bonds.

The company reports its gross revenues for the ten months ending October 31, 1922, at $52,406.81, operating and general expenses at $31,412.03 and net profit for the period of $20,994.78. Its assets and liabilities as of October 31, 1922, are reported as follows:

Assets.

Fixed capital	$346,381 27	
Less depreciation	38,374 23	
		$308,007 04
New construction		5,981 75
Franchise		500 00
Cash		2,028 48
Notes and accounts receivable		23,666 17
Materials and supplies		1,438 46
Prepaid insurance		178 92
Total assets		$341,800 82

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Liabilities.

surplus	$100,000 00
	30,000 00
yable	81,134 76
payable	23,042 45
eposits	631 00
nd licenses	1,204 22
	603 32
	105,185 07
al liabilities	$341,800 82

company asks permission to use the proceeds from the proposed nd sale of bonds to pay outstanding indebtedness which, it is was incurred for the purpose of acquiring properties and ng extensions, additions and betterments. This indebtedness, as d in the petition, includes $30,000 of 6 per cent bonds due 1926, .76 of short-term notes and $23,042.45 of open accounts payable; of $134,177.21.

icant proposes to execute a mortgage to secure the payment of ls. This mortgage, a copy of which is filed with the petition as bit A," will constitute a first lien on all of applicant's properties ll provide for a total authorized issue of $200,000 of first ge 7 per cent 15-year sinking fund gold bonds. Of the author- ount, $115,000 may be issued immediately, $25,000 at any time tent to January 1, 1923, and $60,000 at any time subsequent to 1923. The $85,000 of bonds can be issued to provide 75 per the cost of betterments, improvements and extensions to the ies of the company if and when the net earnings of the company eriod of one year ending within six months prior to the certifica- such bonds are at least twice the amount of the interest charges onds outstanding, including those the trustee is asked to certify. he purpose of creating a sinking fund, the company agrees to the trustee, on or before the fifteenth day of January of each eginning January 15, 1923, to and including January 15, 1927, unt equal to 2 per cent of the face value of the bonds then and outstanding, and, beginning January 15, 1928, and to and ng January 15, 1937, an amount equal to 3 per cent of the face f such bonds. Any or all of the bonds issued under this mort- ay be redeemed on any interest payment date at the option of npany upon the payment of principal, accrued interest and a m of 5 per cent of face value.

ie hearing in this proceeding, the company requested the Com- to make its order covering the issue of only $115,000 of bonds. rts that it has made arrangements to sell this amount of bonds hum, Tully and Company at 92½ per cent of face value, plus l interest.

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Applicant's plants and properties are all located in the State of Nevada. The Railroad Commission has made no appraisal of applicant's properties, and it has no jurisdiction over applicant's rates or service. The only reason why the Railroad Commission has received this application is the fact that applicant is organized under the laws of the State of California. Inasmuch as by section 52 of the Public Utilities Act of this state, all stocks, bonds, notes or other evidences of indebtedness issued "by any public utility" * * * "shall be void," unless authorized by this Commission, we have considered this application and in order to remove any possible doubt as to the validity of the bonds, we now enter an order authorizing their issue.

ORDER.

Winnemucca Water and Light Company having applied to the Railroad Commission for permission to issue and sell $115,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Winnemucca Water and Light Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed in this proceeding and marked "Exhibit A" and to issue and sell, at not less than 92½ per cent of their face value, plus accrued interest, $115,000 of first mortgage 7 per cent 15-year bonds.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein given to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission may have jurisdiction under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

(2) Winnemucca Water and Light Company shall use the proceeds obtained from the sale of the bonds herein authorized to pay in part the outstanding indebtedness referred to in the foregoing opinion.

(3) Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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he authority herein granted will become effective upon the of the fee prescribed by section 57 of the Public Utilities Act, e is $115, and will expire on August 31, 1923.

at San Francisco, California, this sixteenth day of January,

DECISION No. 11518.

MATTER OF THE INVESTIGATION BY THE COMMISSION ON S OWN MOTION INTO THE COMPLIANCE WITH THE REQUIRE-NTS OF CHAPTER 499 OF THE STATE STATUTES OF 1911 AS ENDED BY CHAPTER 600 OF THE STATE STATUTES OF 1915, ALL ELECTRIC, TELEPHONE, TELEGRAPH AND RAILROAD ILITIES AND ALL OTHER PERSONS, FIRMS, CORPORATIONS D MUNICIPALITIES, SUBJECT THERETO, OPERATING POWER D/OR SIGNAL LINES IN THE STATE OF CALIFORNIA.

Case No. 1698.

Decided January 16, 1923.

COMMISSION.

TWENTY-SIXTH SUPPLEMENTAL ORDER.

TIDEWATER SOUTHERN RAILWAY COMPANY.

ereas, the Railroad Commission is, by section 8 of chapter 499, es of 1911, as amended by chapter 600, Statutes of 1915, vested uthority to grant additional time during which all overhead elec-nes subject to the provisions of said act may be reconstructed in lance therewith, and is further charged with the duty of seeing ll of the provisions of said act are properly enforced; and

ereas, the Railroad Commission has made an inspection of the ead electric lines of Tidewater Southern Railway Company and ound a total of 217 infractions of said act, and certain other dous conditions which should be eliminated as shown in detail copies of the field reports of the inspection which have been fur-d Tidewater Southern Railway Company or its agents by this nission; and

ereas, the Railroad Commission is of the opinion that it will be nably possible for Tidewater Southern Railway Company to ve said infractions and hazardous conditions and bring its entire m into compliance with said chapter 499, Statutes of 1911, as ded by chapter 600, Statutes of 1915, before May 1, 1923;

s hereby ordered, that the time during which Tidewater Southern ay Company may reconstruct its overhead electric lines to conform the provisions of chapter 499, Statutes of 1911, as amended by er 600, Statutes of 1915, be and the same is hereby extended to

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May 1, 1923, provided that as to certain infractions listed as "Technical, prior to October 22, 1911," upon copies of field reports heretofore referred to, such time is hereby extended until such infractions can be eliminated in the course of maintenance or construction work.

It is hereby further ordered, that before May 1, 1923, Tidewater Southern Railway Company complete the reconstruction of its overhead electric lines to eliminate all infractions of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, listed as "Hazardous or technical since October 22, 1911," upon copies of field reports heretofore referred to and all hazardous conditions similarly listed.

Dated at San Francisco, California, this sixteenth day of January, 1923.

DECISION No. 11524.

IN THE MATTER OF THE JOINT APPLICATION OF THE SACRAMENTO VALLEY SUGAR COMPANY, A CORPORATION, AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE ELECTRIC PROPERTIES AND BUSINESS HEREIN DESCRIBED.

Application No. 8320.

Decided January 18, 1923.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Based upon proper showing by applicants of error on their part in describing in this application and proposed agreement the location of the property to be transferred thereunder, and upon further showing properly and correctly describing the location of the same, the body of the order in this Commission's Decision No. 11182 is hereby amended to read as follows:

Sacramento Valley Sugar Company has asked permission to sell to Pacific Gas and Electric Company, for the sum of $2,000, an electric distribution system hereafter particularly described, and to cease furnishing electric service in the territory now supplied by this system. Pacific Gas and Electric Company has joined in this request.

Sacramento Valley Sugar Company, by means of this distribution system, supplied electric service to eight consumers in adjoining portions of Glenn and Butte counties. The supplying of this service is purely incidental to the company's principal business of producing and refining sugar.

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ll energy thus distributed is purchased from Pacific Gas and
ctric Company and supplied from its Hamilton City substation, at
ch point its system is connected to the system which Sacramento
ley Sugar Company proposes to sell.

he Commission has considered these facts and is of the opinion that
interests of the consumers of Sacramento Valley Sugar Company
of the public can be better served by Pacific Gas and Electric Com-
y with its better and more adequate facilities, and that this request
ıld be granted; therefore

is hereby ordered, that Sacramento Valley Sugar Company be and
hereby authorized to sell and transfer to Pacific Gas and Electric
ıpany and Pacific Gas and Electric Company to purchase for the
of $2,000 that certain electric distribution system located in the
ıties of Glenn and Butte, State of California, and more particularly
ribed as follows:

hose certain three (3) phase 6600-volt pole and wire electric distribution lines
luding transformers) together with the rights of way for the maintenance and
ation of said lines, situate in the counties of Glenn and Butte, State of Cali-
ia, belonging to Sacramento Valley Sugar Company and extending from the
ilton City substation to the pumping plant formerly owned by the seller in
on 33, township 23 north, range 1 west, M. D. B. and M.,

more particularly shown and delineated on a blue print map filed
onnection with this application and marked Exhibit "A," together
ı the contracts for furnishing and the business of supplying, electric
rgy to the consumers of Sacramento Valley Sugar Company, who
now being furnished with electric energy by means thereof.

is hereby further ordered, that Sacramento Valley Sugar Company
ınd it is hereby authorized to cease furnishing electric service in the
itory now served by means of the property to be transferred and
Pacific Gas and Electric Company be and it is hereby authorized
egin and continue the business thus relinquished.

his authority is granted on the condition that the price for which
property is to be sold shall never be urged before this Commission
ıny other regulatory body as a measure of its value for rate fixing
or any purpose other than that which gave rise to this proceeding.

is hereby further ordered, that Decision No. 11182, dated October
1922, shall remain in full force and effect except as modified by this
er.

ated at San Francisco, California, this eighteenth day of January,
3.

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DECISION NO. 11525.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY, A CORPORATION, FOR PERMISSION TO INCREASE THE RATES FOR WATER FURNISHED BY SAID CORPORATION.

Application No. 7671.
Decided January 18, 1923.

A. E. Shaw, for Applicant.
A. F. Bray, City Attorney of Martinez, for City of Martinez.
H. H. Gogarty, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

Port Costa Water Company, a public utility water supply corporation, makes application for an order of the Commission permitting an increase in the rates charged.

The application alleges in effect that the existing rate schedule is noncompensatory and inadequate to yield the annual revenue necessary to meet the expenses incurred for maintenance and operation, and also provide for a depreciation allowance and a fair interest return upon the reasonable value of its plant at present used and useful in furnishing water to its consumers.

Public hearings were held in this proceeding at Martinez and San Francisco before Examiner Satterwhite.

The rates at present in effect were established by this Commission in its Decision No. 8238, rendered October 15, 1920, in Application No. 4965. For the purpose of establishing a rate base in that proceeding a complete valuation of the properties of this utility was made as of March 1, 1920. At the hearing herein a stipulation was entered that all the records and files of the Commission in the above mentioned rate proceeding may be considered as evidence in this proceeding so far as they may be relevant.

Compilations of data on invested capital were presented by the applicant and by the Commission's engineering department. As there existed a considerable variance between these presentations, they are discussed at some length in this opinion.

An appraisal of properties used and useful as of March 1, 1922, compiled by Mr. E. H. Shibley, manager, was submitted by applicant. A summary of this appraisal follows:

Item	Amount
Rate base, March 1, 1920, as allowed in this Commission's Decision No. 8238, above mentioned	$650,000 00
Total additions and betterments, March 1, 1920, to March 1, 1922	174,290 76
Subtotal	$824,290 76
Deduct total retirements from capital account subsequent to March 1, 1920	18,511 30
Mr. Shibley's net total appraisal as of March 1, 1922	$805,779 46

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In the computation of the above total for additions and betterments
. Shibley used the book entries of cost where possible to segregate
ne, and for all items where book costs were indeterminate or where
tries had not been made he resorted to estimates of cost. In each case
ercentage to cover general overhead expense was added for the vari-
s structural items. The following analysis of Mr. Shibley's appraisal
additions and betterments affords a comparison with that submitted
the Commission's engineer, compiled from actual book accounts and
cussed later:

ANALYSIS OF SHIBLEY'S APPRAISAL OF ADDITIONS AND BETTERMENTS.

al from capital accounts subsequent to March 1, 1920	$73,450 87	
tion Christopher & Bisso land purchase, nonoperative in 1920	32,134 40	
imated cost pumps and equipment, nonoperative in 1920	3,666 20	
imated cost services and meters omitted in 1920 appraisal	1,334 00	
sent value pumps and equipment retired from service and placed in store house	5,724 00	
Total, largely from book entries		$116,309 47
al overhead added to appraisal of construction costs	$10,532 19	
imated cost of certain property donated to the company, including overhead	11,651 10	
ls for equipment remaining unpaid March 1, 1922	1,532 00	
dit on two old autos allowed on purchase of two new autos	1,150 00	
Total of items not entered in capital accounts		24,865 29
ter right litigation charged subsequent to March 1, 1920	$25,660 20	
ls for water right litigation remaining unpaid March 1, 1922	7,455 80	
Total water right litigation		33,116 00
Grand total, additions and betterments		$174,290 76

Mr. H. A. Noble, one of the Commission's hydraulic engineers, made
ield investigation of the system and an examination of the vouchers
capital expenditures and the book entries of same for the period
arch 1, 1920, to May 1, 1922, which period is subsequent to the date
the prior valuation fixed by this Commission as mentioned above.
e results were compiled and included in his report and submitted
evidence at the hearing. The appraisal made for the purpose of this
oceeding includes an adjustment and correction of the rate base
retofore fixed by this Commission as of March 1, 1920, in Decision
. 8238, by deducting therefrom for retirements and including the
ditions and betterments as obtained from the book records subsequent
that date. It may be summarized as follows:

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APPRAISAL BY COMMISSION'S ENGINEER.

Rate base allowed by the Commission as of March 1, 1920		$650,000 00
Deduct for:		
Overestimate hi-tensile C. I. pipe jobs Nos. 1, 2 and 3, as disclosed by book entries of cost	$4,798 76	
Overestimate water right litigation expense	2,785 94	
Total materials and supplies on hand as of March 1, 1920	3,755 00	
Structural properties retired from use March 1, 1920, to March 1, 1922	18,511 30	
Total deductions		29,851 00
Subtotal		$620,149 00
Add additions and betterments subsequent to March 1, 1920, compiled from book records with certain corrections:		
From March 1, 1920, to December 31, 1920	$11,932 39	
From January 1, 1921, to December 31, 1921	49,570 81	
From January 1, 1922, to May 1, 1922	542 99	
Construction work in progress April 30, 1922	6,332 51	
Bills rendered, amount unpaid at this date	1,532 00	
Estimate of equipment in use, nonoperative in March, 1920	3,682 20	
Subtotal	$73,592 90	
Deduct for improper book entries	1,096 40	
Total additions and betterments		72,496 00
Total appraisal submitted as of May 1, 1922		$692,645 50

A comparison of the above appraisals as tabulated discloses that Mr. Shibley's appraisal is considerably greater in amount by reason of the inclusion of certain items, of which a total of $24,864.29 does not appear in the book entries of capital accounts. From the evidence the rate base as of March 1, 1920, included an estimate of $65,000 to cover the total expense of water right litigation then current. This litigation has now been terminated, and the company records show $62,214.06 as the actual expense of the litigation, including bills as yet unpaid of $7,455.80. The inclusion of $33,116 for this item creates a duplication.

Applicant contends that the cost of the portion of Christopher and Bisso lands, heretofore considered nonoperative property, amounting to $32,134, should now be included as operative property. Mr. Shibley testified that this is water-bearing land available for additional development of well sources of supply, which will be needed in the future to meet the gradual increase in the demand for water on the system. In this view the Commission concurs.

The book accounts show $1,843.95 as the purchase price for two new automobiles. It appears that this sum does not include $1,150 allowed as a credit for two old automobiles taken in exchange.

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Applicant acquired certain properties by gift and no entries of same appear in the book accounts. Mr. Shibley submitted an estimated cost of these properties, totaling $11,651.10, which will be allowed.

The evidence shows that the item of overhead expense included in applicant's appraisal was computed theoretically, without proper regard to the amount actually incurred during the construction. The percentage arbitrarily added by Mr. Shibley for the items in this expense were based on those heretofore used by the Commission's engineer in his appraisal of the system as of March, 1920, wherein was employed the estimated reproduction cost method, book costs not being available. With the possible exception of interest during construction, it appears that the overhead expense incurred must be already included in the book accounts, but a segregation of same had not been made. After a careful consideration of the evidence regarding overhead, it is believed that an allowance of $5,700 will cover any expense so incurred and not included in the actual book costs of additions and betterments subsequent to March 1, 1920, or in those of the hi-tensile pipe mains laid in 1919 and known as Jobs Nos. 1, 2 and 3.

Applicant submitted an inventory, compiled from a survey, of the materials and supplies on hand as of June, 1922, totaling $5,696.55. In addition Mr. Shibley's appraisal includes $5,386 as the second-hand value of certain pumps and equipment taken out of service and placed in storage upon the installation of the air lift system of pumping. The above totals for materials and supplies on hand are not included in the appraisal submitted by the Commission's engineer, but should be allowed.

It is shown by the evidence that the prior rate base of $650,000 included the sum of $5,000 as working capital and also an allowance for omissions in that rate base ample to cover the items for meters and services which had, at the time, apparently not been included in the schedule of properties as of March 1, 1920. No further allowance will be necessary at this time because of these matters.

The evidence shows that various additional items, totaling approximately $3,700, were included in the operating expense of 1921, which should have been carried in capital account.

Summing the items indicated above which were not included in the valuation compiled by the Commission's engineer from book records of additions and betterments, there results the total of $65,417.

After very careful consideration of the matters indicated above and all other evidence submitted, the Commission is satisfied that the applicant is entitled to a return upon $758,000 as fairly representing the investment in property used and useful in serving the public, as of May 1, 1922.

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In Decision No. 8238 the Commission allowed a depreciation or replacement annuity, computed by the 6 per cent sinking fund method, of $5,075. Applicant submitted in this proceeding a revision of that sum based on the additions and retirements up to March 1, 1922. The Commission is of the opinion that the sum of $6,700 is the proper allowance for replacement annuity when all the depreciable property in service on May 1, 1922, is taken into consideration, the 6 per cent sinking fund method of computation being used as a basis.

Following is a comparative tabulation of operating expenditures and revenues for the past three years as given by applicant in the annual reports which have been filed with this Commission. The totals for operating expenses are exclusive of the amounts charged for water right litigation and for depreciation, consideration having been given same elsewhere herein.

Item	1919	1920	1921
Total operating revenues	$91,743 07	$101,824 04	$128,844 66
Total maintenance and operation expenses	59,650 88	62,715 81	76,909 94
Differences	$32,092 19	$39,108 23	$51,934 72

The above differences represent, for these respective years, the sums which have apparently been available for depreciation allowance and return upon the investment.

The increase of approximately 27 per cent shown in the 1921 revenues over those for the year 1920 is largely the result of the rate increase granted by this Commission in Decision No. 6238, which was effective for two months of 1920 and for the entire year 1921.

The total maintenance and operation expense as charged by applicant for the year 1921, namely, $76,909.94, represents an increase of $14,194.13 over that charged for 1920. A comparison of the details shows that this difference may in general be accounted for by salary increases which were effective the latter part of 1920, by an increase in the quantity of electric power purchased and by the amount of extraordinary repairs to pumping equipment, wells and pipe mains. Applicant submitted an estimate of $79,000 to cover future operating expenses, using as a basis the total given for 1921 increased by the amount of the salary of an additional operator proposed for the Crockett pump.

The evidence clearly shows that 1921 operating expense, considered as a measure of future cost of operation, is subject to certain corrections for items not properly included and also to a modification of certain expenditures which do not recur annually in like amounts or which only occur at irregular intervals. It appears that certain expenses incurred in making replacements on the system have been charged to operating

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penses instead of to depreciation reserve, but an exact segregation of e items so charged and included in the 1921 operating expense would : difficult, since book accounts of replacements and abandonments have ot been kept.

It is believed that a considerable saving might be made and greater ficiency obtained were the affairs of this utility administered and irected from a single office in the territory served, rather than from a parate office in San Francisco together with a local office as at present.

This applicant is to be commended for its efforts toward increasing ad cheapening the production of water at certain of its wells, by stalling improved equipment. It seems reasonable to anticipate oticeable success in this connection.

Very careful study and consideration have been given to the evidence ubmitted regarding the proper and reasonable cost of maintaining and perating this system. Not only have the expenses incurred in 1921 een reviewed, but also the expenses of preceding years, for the purpose f determining the proper allowance for this item of annual expense n the future for inclusion in the sum which should be produced from he application of the rate schedule. In this study the Commission as carefully considered and made allowance for the adjustment of osts previously incurred in the light of future necessity and is conInced that the sum of $70,000 annually should be ample to meet the ecessary and reasonable expense of maintaining and operating the ystem of this applicant.

Based upon the foregoing, the following tabulation summarizes the nnual charges to which the applicant is entitled from rates:

eturn on investment	$60,640 00
laintenance and operation expense	70,000 00
eplacement annuity	6,700 00
Total annual charges	$137,340 00

The record of monthly water use shows a total consumption of 9,166,339 cubic feet in 1919, of 63,486,373 cubic feet in 1920 and f 67,046,603 cubic feet in 1921. Therefore, the rate of increase of ater consumption in both 1920 and 1921 was over 5 per cent. Of the otal water consumed in 1921 about 87 per cent was delivered to industries and other large users having a monthly use of over 12,000 cubic eet. Based on the 1921 water use the rate schedule as set out in the ccompanying order would yield approximately $5,630 additional evenue, or a total of $134,474. This would indicate a deficit for 1921 ased upon the allowed annual charges—viz, $137,340—of only $2,866, hich is less than 2½ per cent. The normal growth in two years can e counted upon to more than offset this small amount and the econo-

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nies already begun and suggested should result in additional profit to the company.

It appears that applicant may receive some revenue from leasing or farming water-bearing lands included in the rate base. If such lands are leased, or if they are used by applicant for farming purposes, the revenues, as required by the Commission's uniform system of accounts, should be reported under "nonoperating revenues." The expenses incurred to obtain such revenues should be reported as "nonoperating revenue deductions."

ORDER.

Port Costa Water Company having made application to this Commission for authority to increase its rates, public hearings having been held and the matter being submitted:

It is hereby found as a fact that the present rates of the Port Costa Water Company in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged by said company for water service.

And basing its order upon the foregoing findings of fact and upon the other statements of fact in the opinion preceding this order;

It is hereby ordered, that Port Costa Water Company be and it is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates, said rates to be charged for all service rendered subsequent to February 28, 1923:

MONTHLY RATES.

1. *Minimum payments for metered service.*	
For ¾-inch and ⅝-inch meters	$1 25
For 1-inch meter	2 50
For 1½-inch meter	3 75
For 2-inch meter	5 00
For 3-inch meter	6 00
For 4-inch meter	8 00
For 6-inch meter	12 00
2. *Quantity rates.*	
From 0 to 2,000 cubic feet, per 100 cubic feet	35
From 2,000 to 6,000 cubic feet, per 100 cubic feet	30
From 6,000 to 12,000 cubic feet, per 100 cubic feet	25
All over 12,000 cubic feet, per 100 cubic feet	175
3. *Shipping use.*	
For all boats, per 100 cubic feet delivered	1 75
Minimum charge	3 00
4. *Municipal and county use.*	
1. For fire hydrants:	
3-inch, each per month	1 75
2-inch, each per month	1 25
2. For sprinkling roads and streets by the city or county, measured by tank wagon capacity, per 100 cubic feet	17
All other public use at regular meter rates.	
5. *Flat rates.*	
The flat rates at present in effect shall remain unchanged.	

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It is hereby further ordered, that the effective date of this order be and the same is hereby designated as February 10, 1923.

Dated at San Francisco, California, this eighteenth day of January, 1923.

DECISION NO. 11527.

TOWN OF MILL VALLEY, A MUNICIPAL CORPORATION,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION.

Case No. 1736.

A. B. AMBLER ET AL.

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION.

Case No. 1737.

Decided January 18, 1923.

C. Symonds, Town Attorney, and *Walter H. Robinson*, for Complainants.
Ilsbury, Madison and Sutro, by *R. H. Morrison*, for Defendant.

BY THE COMMISSION.

OPINION.

In each of the two above entitled cases, complaint is made that error has been made in the method of measuring the air line distance on which defendant computes its rates for long distance toll messages between the town of Mill Valley and the city of San Francisco. It is also alleged that discrimination exists as between those rates and the rates for toll messages between the town of Corte Madera and the city of San Francisco.

In each case the Commission is asked to determine what the actual air line distances between these points are, and to determine the rates which should properly be applied, in accordance with such distances. The two complaints, involving a like issue, were consolidated for hearing and were heard in the town of Mill Valley before Examiner Eddy. Permission to file briefs having been requested and granted, complainants' brief has been filed. Defendant has waived its right to file its answering brief.

In Decision No. 1147, Application No. 2 and Case No. 407, decided December 20, 1913, Opinions and Orders of the Railroad Commission, Volume 3, page 1129, this decision being supplemental to Decision No. 1082, decided December 14, 1913, in the same proceeding, establishing rates for long distance toll service and prescribing the method to be

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observed by the defendant in measurement of air line distances for the purpose of computing such rates, there appears the following language:

> "and it is further ordered that in computing rates, in accordance with this order, The Pacific Telephone and Telegraph Company shall compute air line distances from post route maps, the method of measurement to be as follows:
>
> If the distance between the points involved is forty miles or less, the actual air line mileage will be scaled from the post route maps * * *."

During the period of the late World War, while defendant's lines were subject to federal control and operation, Order No. 2495 and Order No. 2797, supplemental thereto, affecting defendant's long distance toll rates, were issued by the Postmaster General of the United States in behalf of the federal government. Order No. 2495 contains the following provisions with reference to air-line distances and with reference to the method of measurement to be adopted for applying the rates made standard by the order:

> Effective 12.01 a.m., January 21, 1919, the following initial period rates are made standard throughout the United States for station-to-station toll messages, where the distance between the exchanges, or toll points, does not exceed 40 miles by direct air-line measurement:
>
> For the purpose of applying standard rates where the direct air line distance between points is in excess of 40 miles, distance shall be determined as the air-line distance between the centers of blocks 7 miles square, within which the points of communication are located, and where the distance is in excess of 350 miles by the air-line distance between the centers of sections 35 miles square.
>
> The block and section scaling system for purposes of measuring toll-rate distance between points more than 40 miles distant by direct measurement, shall consist of a grid containing sections 35 miles square, each section subdivided into 25 blocks 7 miles square, so placed on a polyconic projection of a government survey map of the United States that section lines coincide with a line drawn approximately north and south through the center of the United States and with a line at right angles thereto passing through the northwestern point of the International boundary line in the Strait of Georgia.

The rates established by these orders of the Postmaster General are still in effect in this state.

Defendant's rate between Mill Valley and San Francisco is based on the distance shown by a government post route map of California of the year 1914, adopted by it in compliance with the provisions of Decision No. 1147 and Decision No. 1082, referred to above, for the purpose of determining distances between all points reached by its lines in California, and filed with the Railroad Commission. The distance shown by scaling, in accordance with these decisions, is slightly in excess of twelve miles. The distance, similarly scaled, between the town of Corte Madera and the city of San Francisco is slightly less than twelve miles. In accordance with the rates made standard by Order No. 2495 of the postmaster general, the rate between Mill Valley and San Francisco is found to be 15 cents, while that between Corte Madera and San Francisco is found to be 10 cents.

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It is contended by complainants that the rates between points not n excess of forty miles apart are fixed by Order No. 2495 of the ostmaster general on distances determined by direct air line measure- ıent; that the post route map, which defendant has adopted for ıe purpose, does not accurately show the distance between Mill 'alley and San Francisco and that the actual distance determined y direct air line measurement is less than twelve miles. In support f the latter contention, it has offered, in evidence, two topographical ıaps of the United States Geological Survey of San Francisco and icinity and a United States coast survey chart. Complainants also ontend that the distance determined by direct air-line measurement rom the same maps is also shown to be less than twelve miles between 'orte Madera and San Francisco. It is on this showing that the llegation of discrimination is based.

The evidence shows that, according to the government map on which omplainants rely, the distance between Mill Valley and San Francisco nd also the distance between Corte Madera and San Francisco is less ıan twelve miles. If this fact were conclusive and final as establishing ıe proper basis for determining the Mill Valley rate, the complaint of iscrimination would be sustained. The evidence further shows, how- ver, that these particular maps are made up in sections to cover only mited areas within the state and that the sections covering these mited areas are drawn to varying scales. Defendant urges that post oute maps were adopted as being the only known available maps drawn) common scale.

It appears that defendant has made use of the post route map in pplying the method of measurement prescribed by the long distance oll rate decisions issued by this Commission, in fixing the distance nd determining the rates between Mill Valley and San Francisco and etween Corte Madera and San Francisco, and that it did not alter this ıethod of measurement when Order No. 2495, issued by the post- ıaster general, was made effective. The necessity for adopting a stand- rd map covering the entire state and drawn to a common scale is bvious and the Commission recognized this necessity when it provided ı its toll rate orders for the use of the post route map, nor does it ppear to have been the purpose of the postmaster general in the ssuance of Order No. 2495 to set its use aside.

In complainants' brief, the issues involved are summarized as follows:

1. Whether or not the air-line distance between given points in Mill 'alley and San Francisco is more or less than twelve miles.

2. Whether or not Mill Valley should be discriminated against by eason of scaling that distance from a post route map, which is attacked s being inaccurate for such purpose.

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Having available no other map of the entire state more accurate or dependable for the purpose of determining distances between toll points and the post route map having been adopted as standard for this purpose and for this reason, it does not appear that error has occurred in computing the long distance toll rates between Mill Valley and San Francisco, and proof of discrimination on such alleged error has not been shown.

On the other hand, alteration of the present rates between Mill Valley and San Francisco, based on a distance determined by the use of maps offered by complainants, without corresponding alterations of all long distance toll rates between all toll points within the state based on a map common to the entire state, where distances thus shown may not correspond to distances shown by the post route map, would unavoidably result in discrimination. Such further alteration would involve the revision of the entire toll rate structure of the entire state and would by no means guarantee against further question of absolute accuracy and correctness, as to measurement of distances, in all cases.

ORDER.

Complaint having been filed with the Railroad Commission by the town of Mill Valley, complainant, and by A. B. Ambler et al., complainants, vs. The Pacific Telephone and Telegraph Company, defendant, alleging error upon the part of defendant in the measurement of air-line distance between said town of Mill Valley and the city of San Francisco, and in determination of rates for long distance toll messages between said town and city, based on said air-line distance, and alleging discrimination in rates as between said town of Mill Valley and the town of Corte Madera, a public hearing having been held, the matter having been submitted, complainant's brief having been filed and considered and the matter now being ready for decision, and it appearing to the Commission, as set forth in the opinion preceding this order, that error as aforesaid has not been made by defendant in the measurement of air line distances between the said towns of Mill Valley and Corte Madera and the city of San Francisco, and that discrimination has not been shown to exist.

It is hereby ordered, that the complaints herein be and they are hereby dismissed.

Dated at San Francisco, California, this eighteenth day of January, 1923.

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DECISION No. 11529.

THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL CERTAIN OF ITS GENERAL REFUNDING SERIES "B" SIX PER CENT BONDS.

Application No. 8272.

Decided January 18, 1923.

THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 11038, dated September , 1922, authorized Midland Counties Public Service Corporation to ue and sell, at not less than 95.65 per cent of face value, $396,000 of general refunding Series "B" 6 per cent bonds subject to the con- ion, among others, that the proceeds from the sale of $232,676.32 such bonds be placed in a special deposit and expended only as thorized by the Commission in a supplemental order or orders.

The Commission on December 13, 1922, by Decision No. 11355, thorized applicant to use the proceeds from the sale of $20,686.05 of d $232,676.32 of such bonds, to finance, in part, construction expendi- es made prior to October 31, 1922.

In a supplemental petition filed in the above entitled matter on cember 30, 1922, applicant reports that during the month of Novem- r it has made expenditures or incurred indebtedness in the amount $10,876.77 for the purpose of providing necessary additions, exten- ns, improvements and betterments to its system which was not paid provided for by the issue of stock or bonds.

Applicant asks that it be permitted to use the proceeds from the e of $8,157.58 of the bonds authorized by Decision No. 11038 to ance, in part, these reported expenditures.

The Commission has considered applicant's request and believes that should be granted, as provided herein; therefore,

It is hereby ordered, that Midland Counties Public Service Cor- ration be and it is hereby authorized to use on or after the date reof, the proceeds from the sale of $8,157.58 of the bonds authorized Decision No. 11038, dated September 29, 1922, as amended, to ance, in part, construction expenditures made prior to November 30, 22, and referred to herein.

It is herby further ordered, that the order in Decision No. 11038, ted September 29, 1922, as amended, shall remain in full force and ect, except as modified by this second supplemental order.

Dated at San Francisco, California, this eighteenth day of January, 23.

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DECISION NO. 11530.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING FIVE PER CENT GOLD BONDS TO THE AMOUNT OF FOUR MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS FACE VALUE.

Application No. 8329.

Decided January 18, 1923.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Railroad Commission on October 14, 1922, by Decision No. 11104, authorized Southern California Edison Company to issue and sell, at not less than 90½ per cent of face value, plus accrued interest, $4,840,000 face value of general and refunding mortgage 5 per cent gold bonds of the series of 1919, which are due on February 1, 1944. The order of the Commision, as amended from time to time, has permitted the company to use $1,409,222.62 of the proceeds received from the sale of the bonds to retire $592,000 face value of bonds of The Edison Electric Company, due September 1, 1922, and to finance, in part, the cost of November construction expenditures on its Big Creek development.

In a supplemental petition filed in the above entitled matter on January 12, 1923, the company reports that during the month of November, 1922, it expended for construction purposes, exclusive of its Big Creek development, the sum of $1,126,914.12, against which no securities have been issued. It asks that it be permitted to finance these expenditures with proceeds obtained from the sale of bonds authorized by Decision No. 11104. Applicant has on hand $2,970,977.38 obtained from bonds sold under authority granted in that decision.

The Commission has given consideration to applicant's request and believes it should be granted as herein provided; therefore,

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use $1,126,914.12 of the proceeds obtained from the sale of bonds authorized to be issued by Decision No. 11104, dated October 14, 1922, to finance the construction expenditures reported in the supplemental petition filed in this proceeding on January 12, 1923, and in exhibits filed in connection therewith.

It is hereby further ordered, that the order in Decision No. 11104, dated October 14, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this eighteenth day of January, 1923.

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DECISION No. 11531.

THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 8271.

Decided January 18, 1923.

Y THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 11037, dated September 29, 922, authorized Southern California Gas Company to issue and sell, t not less than 95.65 per cent of face value, $2,000,000 of its first and efunding 5½ per cent 30-year bonds, subject among others, to the ondition that the proceeds from the sale of $944,483.40 face value of uch bonds be deposited with the trustee and expended only for such urposes as the Railroad Commission might authorize.

By various supplemental orders in the above entitled matter, the Commission authorized applicant to use the proceeds from the sale of $567,000 of said $944,483.40 of bonds to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its plant and properties up to and including October 31, 1922, or to pay floating indebtedness incurred for the purpose of making such additions and betterments.

Applicant on January 2, 1923, filed a statement with the Commission showing in some detail that prior to November 30, 1922, it had expended for construction purposes the sum of $232,638.94, which has not been paid or provided for by the issue of bonds. Because of such expenditures, applicant asks permission to use the proceeds from the sale of $174,000 of the bonds authorized by Decision No. 11037 to reimburse its treasury on account of earnings temporarily used to pay for such construction work or to pay current indebtedness incurred for such purpose.

The Commission has considered applicant's request and believes that it should be granted, as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 11037, dated September 29, 1922, as amended, be and it is hereby modified so as to permit Southern California Gas Company to use, on or after the date hereof, the proceeds from the sale of $174,000 face value of the first and refunding mortgage bonds, the issue of which is authorized by that decision, to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its plant and properties up to and including November 30, 1922, or to pay floating debt incurred for the purpose of paying for such additions and betterments.

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It is hereby further ordered, that the order in Decision No. 11037, dated September 29, 1922, as amended, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this eighteenth day of January, 1923.

DECISION NO. 11534.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST PREFERRED STOCK TO THE PAR VALUE OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO USE THE PROCEEDS FROM THE SALE OF SAID FIRST PREFERRED STOCK IN THE MANNER AND FOR THE PURPOSES SET FORTH HEREIN.

Application No. 8550.

Decided January 20, 1923.

C. P. Cutten, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell, at not less than $90 per share, 25,000 shares ($2,500,000) of 6 per cent first preferred stock and use the proceeds to pay construction expenditures.

In its Exhibit No. 1, applicant reports its unreimbursed capital expenditures and its estimated expenditures subsequent to June 30, 1922, as follows:

Unreimbursed capital expenditures of Pacific Gas and Electric Company and Mount Shasta Power Corporation at June 30, 1922	$2,553,967 64
Unexpended balances on general manager's authorization for construction work to June 30, 1922, on Pacific Gas and Electric Company system	6,318,570 32
Estimated cost of new construction arising out of development of the company's business and the addition of new consumers for 1922-23	3,150,000 00
Unexpended balances on general manager's authorization for construction work as of June 30, 1922, on Mount Shasta Power Corporation system	2,245,576 60
Total capital expenditures unreimbursed and authorized	$14,268,114 56

From June 30, 1922, to November 30, 1922, applicant reports that it has received from the sale of stock the sum of $4,795,078.31. It further reports that it should receive on stock subscribed for, but not fully paid, and from stock not yet sold, but authorized by the Commission, the sum of $1,691,713.71. The total cash received since June

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1922, from the sale of stock and the amount of unpaid stock subiptions, together with the proceeds to be received from the sale unsold stock as of November 30, 1922, amounts to $6,486,792.02. ducting this amount from the $14,268,114.56, leaves capital expendi-es unreimbursed and authorized in the amount of $7,781,322.54. is for the purpose of financing, in part, the $7,781,322.54 of con-uction expenditures that applicant desires permission to issue and l the $2,500,000 of preferred stock.

[herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad mmission for permission to issue $2,500,000 of 6 per cent first pre-red stock, a public hearing having been held and the Railroad Com-ssion being of the opinion that the money, property or labor to be ocured or paid for by the issue of such stock is reasonably required by plicant and that this application should be granted as herein pro-led; therefore,

It is hereby ordered, that Pacific Gas and Electric Company be and is hereby authorized to issue and sell, at not less than $90 per share, ,000 shares ($2,500,000) of its 6 per cent first preferred stock and e the proceeds to finance, or pay, in part, the construction expendi-res set forth in Exhibit No. 1 filed in this proceeding, or to reimburse treasury on account of earnings used to pay such construction penditures.

The authority herein granted is subject to further conditions as lows:

(1) Pacific Gas and Electric Company shall keep such record of the ue, sale and delivery of the stock herein authorized and of the dispo-ion of the proceeds as will enable it to file, on or before the twenty-th day of each month, a verified report as required by the Railroad mmission's General Order No. 24, which order, in so far as appli-ble, is made a part of this order.

(2) The authority herein granted will become effective on the date reof but will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered ed as the opinion and order of the Railroad Commission of the State California.

Dated at San Francisco, California, this twentieth day of January, 23.

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DECISION NO. 11539.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE RATES, REGULATIONS, CONTRACTS, AND PRACTICES RELATING TO THE TRANSPORTATION OF EXPRESS MATTER BY THE PACIFIC STATES EXPRESS, A CORPORATION, OVER THE AUTO STAGE LINES OF RICHARDS TRUCKING AND WAREHOUSE COMPANY AND PEOPLES EXPRESS COMPANY.

Case No. 1745.

Decided January 22, 1923.

Derlin and Brookman, for Pacific States Express and Richards Trucking and Warehouse Company.
Frank Karr and *C. F. Squires*, for Pacific Electric Railway Company and Southern Pacific Company.
Sanborn and Rochl and *M. Thompson*, for American Railway Express Company.
Charles H. Tribit, Jr., for Richards Trucking and Warehouse Company.
H. L. Hinman, for Peoples Express Company.

BY THE COMMISSION.

OPINION.

The Pacific States Express is engaged in the business of transporting property for compensation over the lines of other carriers between San Francisco and Alameda County points on the one hand, and Los Angeles and Wilmington on the other. From San Francisco to Wilmington it operates over certain steamship lines not involved in this proceeding. Between San Francisco and Alameda County it operates over the auto stage line of the Peoples Express Company, and between Los Angeles and Wilmington over the auto stage line of the Richards Trucking and Warehouse Company.

These arrangements are shown by two contracts: one between Pacific States Express and the Richards Trucking and Warehouse Company; the other, between Pacific States Express and Peoples Express Company. Both contracts provide for charges to the express company which are different, though not materially less, than the published tariff of the stage company and both give exclusive privileges to the Pacific States Express. It was to test the lawfulness of the operations of the Pacific States Express over the stage lines of the two last named companies, and also the lawfulness of the operations of the stage companies in carrying express for the Pacific States Express, that the Commission instituted this proceeding.

The first question to be determined is whether the Pacific States Express can operate in the manner described without a certificate of public convenience and necessity, which certificate it admittedly does not now possess. It is urged by the Pacific States Express that it is strictly an express company as defined by section 2 (*k*) of the Public Utilities Act, and that hence, under section 50 of that act, no certificate of public convenience and necessity is required, as a prerequisite

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any of its operations. The intervener, American Railway Express ompany, on the other hand, contends that the Pacific company is a ransportation company" as defined by the Auto Stage and Truck ransportation Act (chapter 213, Statutes 1917, as amended), and nce, must obtain a certificate from the Commission as required by ction 5 of that act before it can lawfully operate.

Section 2 (*k*) of the Public Utilities Act provides:

> The term "express corporation," when used in this act, includes every corporation person, their lessees, trsutees, receivers or trustees appointed by any court whatever, engaged in or transacting the business of transporting any freight, merchanse or other property for compensation on the line of any common carrier or stage auto stage line within this state.

It will be noted that this definition specially mentions stage or auto age. It is clear that the Pacific States Express does not own or perate any auto trucks of its own, but transports property over the nes of auto stages. Therefore, the operations of the Pacific company ll squarely within the terms of this section, and are controlled by it nless section 2 (*k*) is superseded or repealed by the provisions of the tter act of 1917.

It is a general rule of statutory construction that repeals by implication are not favored. Unless it clearly appears from the terms of the ater act that the legislature intended to repeal the earlier act, the alidity of both acts will be presumed. This rule is well stated in he case of *Pearrs* vs. *Chambers*, 26 Cal. App. 588, where the court said:

> The rule is that an act general in its character will not repeal a special act, ven though the former contains language which seems to cover the same ground s that included within the special law.

The American Railway Express Company seems to be of the opinion hat chapter 213 is a more special law than section 2 (*k*) of the Public Utilities Act. With this view we can not agree. As said in the brief of the American Railway Express Company, the Auto Stage and Truck Transportation Act is designed for the purpose of providing a comprehensive plan for the regulation of transportation of persons or property by auto. It covers the general subject of automobile transportation for compensation. Section 2 (*k*) refers to one subject, and one only, namely, express companies. Unless the two statutes are irreconcilably inconsistent it can not be held that the earlier act has been repealed. There is nothing in the Auto Stage and Truck Transportation Act which suggests the repeal of section 2 (*k*). True, all acts or parts of acts inconsistent with chapter 213 are declared repealed. But there is nothing in section 2 (*k*) inconsistent with the provisions of the later act. The particular thing that differentiates an express company from

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other common carriers is that the express company transports property "on the line" of some other common carrier or stage or auto stage line. The definition of transportation company in section 1 (*c*), chapter 213, does not abolish this distinction. It is provided that any one owning, controlling, operating or managing, an automobile in the business of transporting persons or property, etc., is a transportation company. Taking the two statutes together instead of being inconsistent, they appear to us to be perfectly consistent. Under section 2 (*k*), an express company operates on or over the line of a common carrier or stage line, and under chapter 213 a transportation company owns and operates the stage line itself.

It is said by the American Railway Express Company that the truck or stage companies act as the agent of the express company in the collection of charges and the picking up and delivery of express matter. It is then claimed that since "one who acts through an agent does the act himself," it follows that the express company is actually operating and managing auto stage lines for compensation over the highways of this state, and is therefore a transportation company under section 1 of chapter 213. It is true that in certain actions in tort or contract—especially as regards the question of liability—a person who acts through an agent is said to do the act himself. However, it would be quite fallacious to extend this maxim to all forms of agency and to say that one who performs a particular act through his agent thereupon does every act the agent does whether it be within the scope of the agency or not. The Richards and the Peoples companies may be acting as agents for the express company in connection with certain phases of the express business, but in conducting the business of a transportation company and in owning and operating automobiles for compensation, they act for themselves. Because they act as agent for the express company they do not themselves become an express company, nor does the Pacific company, by reason of the same fact become a transportation company.

The case of *Bank of Kentucky* vs. *Adams Express Company*, 93 U. S. 188 (cited by interveners), which holds that the railway company must be considered as an agent for the express company, does not hold that the express company is, in law, operating, controlling and managing the railway company. Irrespective of the existence of the relationship of principal and agent, the fundamental difference between the express company and the transportation company is maintained. The railway or transportation company owns and operates its line; the express company transports property over the lines of another.

Since we are satisfied from the clear terms of the statutes that section 2 (*k*) is not inconsistent with chapter 213, and hence, not repealed by it,

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he question of "contemporaneous events, the evils to be cured," etc., an not be considered. These matters can only be considered in aid of he interpretation of a statute which is uncertain or ambiguous in its erms, and, as pointed out, such is not the case here.

It follows, therefore, that the Pacific States Express is an express ompany under section 2 (*k*), and is not required to obtain a certificate of public convenience and necessity either under section 50 of the Public Utilities Act or section 5 of chapter 213. It is urged by the American Railway Express Company that a construction such as this will destroy he limitations and conditions included in many franchises heretofore granted by the Commission. Cases are cited wherein applications to operate freight and express service have been granted as to the freight service, but denied as to the express service. It is said that if an express company can operate over an established auto stage line without a certificate from the Commission, the limitation put upon certificates granted to auto stage lines are ineffectual and useless, since a stranger to the record could organize and commence operating as an express service over a stage line notwithstanding that the owners of the stage line have been refused the right to operate an express service.

This brings us to the second question to be determined, namely, the lawfulness of the operation of the Richards company and the Peoples company in transporting property for the Pacific States Express. It is contended by the Pacific States company that, in carrying goods presented by it, these companies act in a private capacity. They do not come into contact with the public, they offer no tariff to the public for this service, and hence, it is said, the arrangement between the express company and the stage company are not within the scope of public utility operation.

These contentions are based mainly on the so-called "Express Cases," 117 U. S. 1-34. The exact point decided in these cases was that railroad companies were *not* charged by law "with the duty of carrying all express companies in the way that express companies are usually carried, just as they are with the duty of carrying all passengers and freight when offered in the way that passengers and freight are usually carried." The court reviewed the history of the express business, and showed that the custom and usage had always been for a railway company to take but one express company on its passenger trains, and that it had never been the practice to grant such a privilege to more than one company at the same time, "*unless a statute* or some special circumstance *made it necessary.*" It was, therefore, held that in the absence of either usage or statute to the contrary, the railway company might make special contracts with any express company it chose, and these contracts might, because of the peculiar nature

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of the express business, confer privileges upon the chosen company to the exclusion of all other express companies. But it will be noted that this ruling was based on the ground that there was no custom or usage to the contrary, and that there was no *legislation regulating matters of this kind.* The court said:

> The regulation of matters of this kind is legislative in its character, not judicial. To what extent it must come, if it comes at all, from congress, and to what extent it may come from the states, are questions we do not now undertake to decide; but that it must come, when it does come, from some source of legislative power, we do not doubt. The legislature may impose a duty, and when imposed it will, if necessary, be enforced by the courts; but, unless a duty has been created either by usage, or by contract, or by statute, the courts can not be called on to give it effect.

In California, the regulation of matters of this kind has been provided for by the legislature. Chapter 213, Statutes 1917, as amended by chapter 280, Statutes, 1919, defines a transportation company to be:

> Every corporation or person, * * * owning, controlling, operating or managing, any automobile, jitney buss, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route.

We think this definition embraces all the operations of the Richards company and the Peoples company. When they transport goods presented to them by the express company they are using their trucks in the business of transporting property for compensation over a public highway between fixed termini or over a regular route. The fact that they do this by contract and for but one party does not exempt them from the operation of the statute.

It can not be said that these operations are not subject to regulation because they are outside the scope of the undertaking of the Richards and Peoples companies. The *Santa Fe* case (173 Cal. 577), on which this argument is based, holds that the railway company had not undertaken to serve the territory from Oceanside to Temecula with a railroad, hence, it could not be required, under the guise of regulation, to enter upon this new undertaking. Here, the companies have already undertaken to transport the property offered by the express company, for compensation over the public highways, and irrespective of whether they considered it a part of their public utility undertaking or not, the legislature has declared such operations, when once undertaken, to be subject to regulation as provided in the act.

Being transportation companies, as defined by chapter 213, these companies are forbidden to operate any automobile or truck over the highways of this state for compensation without first obtaining a certificate from the Commission authorizing such operation. The operations of the transportation company are strictly limited by the terms of this certificate, and can not be enlarged upon without authorization by the

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Commission. Companies operating in this state on May 1, 1917, are exempted from the necessity of obtaining such certificate, but the exemption is "only to the extent of the operation then conducted." Any new or additional operations are unlawful unless based on a certificate from the Commission. (*Motor Transit Company* vs. *Railroad Commission*, 64 Cal. Dec. 278.)

It follows that a transportation company can not contract to carry, regularly or between fixed termini, matter for an express company which it is not itself authorized to carry. In this connection the essential difference between an express company and a transportation company must again be noted. The express company operates without a certificate over the line of some other carrier. There is no limitation as to the articles or property it can lawfully carry. The transportation company owns or operates its own stages, and can only carry such property as is permitted under its operative right or certificate. A transportation company may, if its operative right permits, carry property which is popularly designated as "express" but it does not thus become an express company in the legal sense. If its operations fall within the definition of a "transportation company," then its rights and limitations are those of a transportation company. The same is true of an express company. It may carry matter which is popularly called "freight," but so long as it operates only over the lines of another carrier, it remains an express company under the law.

By this distinction the laws have preserved the essential features of an express company. Its operation over a transportation company's line are more restricted than its operation over a railroad, but this is only to the extent that the operations of the transportation company itself are more restricted by law than those of a railroad company. It thus follows that it is necessary to determine the extent of the operative rights of the Peoples company and the Richards company.

Both these companies were operating prior to May 1, 1917, and neither has secured any certificate from the Commission since that time. Their operative rights are limited, therefore, to the extent of the operations which they were then conducting. The principal evidence as to the scope of these companies' operations is found in their published tariffs, which are filed with the Commission pursuant to law. The tariff of the Richards company shows that that company is a general carrier of merchandise and property of all kinds, irrespective of weight or size. The fact that the Richards company has referred to itself as a carrier of freight does not fix the legal character of its operations. Strictly speaking, it is neither a freight nor an express company, but a transportation company. It transports property over the public highways on its own vehicles or those under its control. Its

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tariff does not show that any limitation has ever been placed upon the kind of property which it carries.

The tariff of the Peoples company also shows that it carries almost every kind and description of personal property. In this company we have another illustration that legal status can not be described by the use of the common term "express." The Peoples Express Company calls itself an *express company*; its tariff is designated "*local freight tariff*"; whereas, in the legal sense it is neither an *express* company nor a *freight company*, but a *transportation company*.

We are satisfied, therefore, that under their present tariffs these companies may lawfully carry any property which may be offered them by an express company. It may be said that such tariffs do not establish what the operative rights of the companies were on May 1, 1917. But no evidence was introduced to show that the operations are different now than they were then. The operations of these companies as shown by their tariffs will be considered lawful in the absence of affirmative evidence to the contrary.

The only remaining question is whether these companies can carry goods of the express company at a lower or different rate than that prescribed in their published tariffs. The contracts between the Pacific company and the Richards company and the Peoples company provide that the latter companies shall not make contracts with other express companies for the use of their vehicles or for the conduct of a competing express company. The law provides, and the Commission has held, that no transportation company shall extend to any corporation or person any privilege or facility except such as are regularly and uniformly extended to all corporations and persons. It is said by the American Railway Express Company that these contracts create an unlawful discrimination. We think this does not necessarily follow from the fact that the rates fixed by the contracts are different from the published rates. The prohibition against discrimination refers to discrimination between persons or property receiving the same kind or class of service. In other words, it is lawful to charge different rates for different classes of service. We think the service rendered the express company is of such character as to justify a different rate than that fixed by the tariff, provided, of course, that such rate is filed with the Commission. However, if the contract should be considered as charging a different rate or extending a privilege, or facility to one corporation which is not "regularly and uniformly extended to all corporations and persons" within the meaning of the prohibition of section 17 (*b*) of the Public Utilities Act, it should be remembered that the Commission is authorized by the same section "to establish such

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xceptions from the operation of this prohibition as it may consider ust and reasonable as to each utility."

Is it "just and reasonable" to establish an exception in this case and o permit these transportation companies to carry the goods of one xpress company at rates which differ from the published rates and to he exclusion of other express companies? We think this question is nswered in *Express Cases,* 117 U. S. 34. There the court said:

> The reason is obvious why special contracts in reference to this business are ecessary. The transportation required is of a kind which must, if possible, be had or the most part on passenger trains. It requires not only speed, but reasonable ertainty as to the quantity that will be carried at any one time. As the things arried are to be kept in the personal custody of the messenger or other *employe* f the express company, it is important that a certain amount of car space should e specially set apart for the business, and that this should, as far as practicable, e put in the exclusive possession of the express man in charge. As the business o be done is "express," it implies access to the train for loading at the latest, and or unloading at the earliest convenient moment.
>
> All this is entirely inconsistent with the idea of an express business on passenger rains free to all express carriers.

The reasoning of this case applies here. The nature of the express usiness justifies special contracts with transportation companies as vell as with railroads. But for the reason above pointed out (which eason, as we have said, does not apply to railroads), a transportation ompany must file such a contract with the Commission and obtain the ommission's approval to it. In so far as the contract here under conideration permits any departure from the published tariff as to rates r facilities, the Commission is of the opinion that it is just and reasonble to establish an exception from the operation of the prohibition bove referred to.

To sum up the entire situation, we are of the opinion:

1. That an express company may begin operations without a certifiate of public convenience and necessity.

2. That the transportation, by a transportation company, of property or compensation on a public highway of this state, even though such roperty is presented by an express company, is subject to regulation as rovided in chapter 213, Statutes 1917, as amended.

3. That a transportation company can not lawfully make a special ontract with an express company to carry property which it can not tself carry by virtue of its own operative rights.

4. That a transportation company may make a special contract with n express company to carry property which it can lawfully carry itself, ut must file such contract with the Commission for its approval.

5. That any departure in rates or facilities from the published tariff s unlawful unless the Commission considers it just and reasonable to stablish and permit such departure.

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ORDER.

For the reason stated in the foregoing opinion, the contract between the Pacific States Express and the Peoples Express Company, and the contract between the Pacific States Express and the Richards Trucking and Warehouse Company, are hereby approved and ordered filed.

In all other respects the proceeding is hereby dismissed.

Dated at San Francisco, California, this twenty-second day of January, 1923.

DECISION No. 11542.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL MENDOCINO COUNTY POWER COMPANY FOR ORDER AUTHORIZING ISSUE OF STOCK AND BONDS.

Application No. 7999.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL MENDOCINO COUNTY POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 8520.

Decided January 23, 1923.

Frank W. Taft, for Applicant.

MARTIN, *Commissioner*.

OPINION.

The above entitled applications were consolidated for hearing and decision.

In Application No. 7999, as amended, Central Mendocino County Power Company asks permission to issue and sell $100,000 of common stock at 85, $75,000 of 7 per cent preferred stock at 95, and $100,000 of first mortgage 6 per cent 30-year bonds at 94, and to use the proceeds for the purpose of acquiring an electric distributing system and a water system from Willits Water and Power Company and 5260 acres of watershed lands from H. W. Cook, F. W. Taft and Edward Morris, and for other purposes mentioned herein.

In Application No. 8520, Central Mendocino County Power Company asks the Railroad Commission to make its order declaring that public convenience and necessity require it to operate an electric and water system in the town of Willits and in Willits Valley.

The company requests permission to use the proceeds from the sale of its stock and bonds for the following purposes:

To acquire properties from Willits Water and Power Company	$90,000 00
To acquire approximately 5260 acres of land from H. W. Cook, F. W. Taft and Edward Morris	75,000 00
To construct electric transmission line	25,000 00
To construct dam at Dutch Flat	25,000 00
To construct water transmission line from dam to Willits and to install additional services in Willits, and vicinity	20,000 00
To pay organization expenses	15,000 00
Total	$250,000 00

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Central Mendocino County Power Company was organized on or ut March 20, 1922, for the purpose, among others, of providing ctric service for domestic and commercial purposes and water for nestic and irrigation purposes in and around Willits, Mendocino unty. Its articles of incorporation, as amended, provide for an horized capital stock of 200,000 shares of the aggregate par value of 00,000, divided into $125,000 of common and $75,000 of 7 per cent nulative preferred. Applicant should, immediately after filing its ended articles of incorporation with the Secretary of State, file a tified copy of such amended articles with this Commission. The ler herein will require this to be done.

The company has entered into an agreement dated December 8, 1922, purchase, at a cost of $90,000, the electric distributing system and water system of the Willits Water and Power Company. The sale these properties is the subject matter of Application No. 8521. Appli- nt has paid $10,000 of the purchase price and has agreed to pay the ance in cash within four months after the date of the agreement. e transfer of the properties is authorized by the decision in Applica- n No. 8521.

It is of record that the present water supply of the Willits Water d Power Company is inadequate. The organizers of the Central ndocino County Power Company believe that the area of the water- d land should be extended through the acquisition of approximately 60 acres of land from H. W. Cook, F. W. Taft and Edward Morris. ese lands are adjacent to those now owned by the Willits Water and wer Company. Applicant has agreed to pay $75,000 for the 5260 es of land comprising the entire watershed of Conklin Creek, gether with the improvements on the lands. Some of the land is vered with merchantable timber and part suitable for grazing pur- ses. Applicant intends to construct at Dutch Flat a concrete dam 8 feet high, 24.5 feet wide at the base and 117.48 feet wide at the). Such a dam will, according to the testimony, impound 5000 acre- t of water and will cost approximately $25,000.

It will be necessary for applicant to construct a transmission line m the dam to Willits. The first 3000 feet of this transmission line ll be of wood stave or iron casing pipe, 16 inches in diameter, and the naining 17,000 feet will be of concrete pipe 12 inches in diameter. e cost of the transmission main is estimated at $15,000. To give ditional service in Willits and to improve the distributing system, plicant estimates that it will have to expend $5,000.

The electric energy now distributed in Willits is obtained from the nt of the Northwestern Redwood Company located at Northwestern. plicant will not purchase the electric generating plant nor does the nber company desire to continue to supply electric energy to the

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distributing system in Willits. The lumber company can use all of the electric energy generated at its mill in the conduct of its own business. In view of this situation, applicant intends to construct a 10,000-volt transmission line from Willits to Potter Valley, a distance of about 15 miles, and there connect with the plant of the Snow Mountain Water and Power Company. The cost of this transmission line, which will be of wood pole construction, is estimated at $25,000. Applicant will purchase from the Snow Mountain Water and Power Company electric energy at wholesale and distribute it in Willits and vicinity. By so doing, it will make available to residents of Willits electric energy generated by water power rather than by steam power.

The company asks permission to expend $15,000 of the proceeds from the sale of its stock and bonds for organization purposes. There is nothing in the record to indicate that the organization of applicant and the consolidation of the properties involved any extraordinary problems calling for an expenditure such as proposed by applicant. The organization expenses set forth in applicant's Exhibit (*d*) are, in our opinion, excessive. The Commission will allow not more than $5,000 for the purpose of paying organization expenses, legal and engineering fees listed in Exhibit (*d*). The distribution of this amount to the several parties interested in the organization of Central Mendocino County Power Company may be determined by those interested in the organization of the company.

To obtain the required moneys, applicant asks permission to issue and sell $100,000 of common stock at 85, $75,000 of 7 per cent cumulative preferred stock at 95, and $100,000 of 6 per cent first mortgage 30-year bonds at 94 and accrued interest. If the stock and bonds are sold at the prices mentioned, applicant will realize $250,250. By reducing the allowance for organization expenses from $15,000 to $5,000, the company's estimated requirements are reduced from $250,000 to $240,000, and there is no necessity for issuing all of the stock and bonds. The order will authorize the issue of $100,000 of common, $65,000 of 7 per cent cumulative preferred stock and $100,000 of bonds.

Applicant has filed a copy of its proposed mortgage or deed of trust, but this instrument does not contain a description of the lands on which it will be a lien and is not satisfactory in other respects. We believe that the mortgage or deed of trust should be revised and a complete new copy filed with the Commission.

Applicant asks the Commission to make an order declaring that public convenience and necessity require it to exercise the rights and privileges under a franchise which it intends to obtain from the town of Willits and under a franchise which it intends to obtain from the board of supervisors of Mendocino County. Copies of the applications

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hese franchises are on file but no copies of the franchises. The pany should, as soon as granted, file with the Commission a certified of the ordinance granting it a franchise in the town of Willits and rtified copy of the ordinance granting it a franchise in Mendocino nty. The company should also file with the Commission a stipula- duly authorized by its board of directors, declaring that Central locino County Power Company, its successors or assigns will never n before the Railroad Commission, or any court or other public , a value for the rights granted under said ordinances in excess of amounts actually paid to the grantors of the franchises, which nts should be stated in the stipulation.

herewith submit the following form of order:

ORDER.

ntral Mendocino County Power Company having applied to the road Commission for permission to issue stock and bonds, and ise franchise rights, a public hearing having been held and the mission being of the opinion that this application should be granted rein provided and that the money, property or labor to be procured aid for by the issue of the securities herein authorized is reasonably ired by applicant and that the expenditures are not in whole, or in , reasonably chargeable to operating expenses or to income;

is hereby ordered, that Central Mendocino County Power Com- be and it is hereby authorized to issue $100,000 of common stock, 00 of 7 per cent cumulative preferred and $100,000 of 6 per cent ear bonds.

he authority herein granted to issue stock and bonds is subject he following conditions:

) None of the bonds herein authorized shall be issued or delivered l the Railroad Commission, by supplemental order, has authorized icant to execute the mortgage or deed of trust securing the issue of ls.

) The stock and bonds shall be sold for cash; the common stock at less than 85, the preferred stock at not less than 95, and the bonds not less than 94 per cent of their par value and accrued interest.

) The proceeds from the sale of the stock and bonds shall be used ollows:

acquire property of Willits Water and Power Company	$90,000 00
acquire approximately 5260 acres of land from H. W. Cook, F. W. Taft and Edward Morris, described in this application	75,000 00
construct an electric transmission line from Willits to Potter Valley, approximately	25,000 00
construct Dutch Flat Dam, approximately	25,000 00
construct transmission main from new dam to Willits and to pay for the installation of additional services, approximately	20,000 00
pay organization expenses	5,000 00
	$240,000 00

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Any proceeds not used for the foregoing purposes may be expended only for such purposes as the Commission may authorize by supplemental order or orders. None of the proceeds from the sale of the bonds may be expended until the Commission has authorized applicant to execute a mortgage or deed of trust to secure the payment of the bonds.

(4) The authority herein granted to issue bonds will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $100, and upon the issue by the Commission of an order permitting applicant to execute a mortgage or deed of trust to secure the payment of the bonds.

The authority to issue stock will become effective upon the filing with the Commission of a certified copy of applicant's amended articles of incorporation.

(5) Applicant shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted to issue stock and bonds will expire on October 1, 1923.

It is hereby further ordered, that this application, in so far as it relates to the issue of the $10,000 of preferred stock, be and it is hereby dismissed without prejudice.

The Commission hereby declares that hereafter upon the filing of a certified copy of the ordinance granted to applicant by the town of Willits and a certified copy of the ordinance granted to applicant by the board of supervisors of the county of Mendocino, and upon the filing of the stipulation referred to in the foregoing opinion, the Commission will declare that public convenience and necessity require and will require the exercise by applicant of the rights and privileges granted by such ordinances, subject to such terms and conditions as the Railroad Commission may prescribe.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of January, 1923.

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DECISION No. 11543.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN REDWOOD COMPANY, WILLITS WATER AND POWER COMPANY AND CENTRAL MENDOCINO COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING NORTHWESTERN REDWOOD COMPANY TO SELL TO WILLITS WATER AND POWER COMPANY AN ELECTRIC DISTRIBUTING SYSTEM, AND FOR WILLITS WATER AND POWER COMPANY TO SELL TO CENTRAL MENDOCINO COUNTY POWER COMPANY SUCH ELECTRIC DISTRIBUTING SYSTEM AND THE WATER SYSTEM OF WILLITS WATER AND POWER COMPANY.

Application No. 8521.

Decided January 23, 1923.

ıthal, McKinstry, Raymond, Haber and Firebaugh, by *Joseph Haber*, for Northwestern Redwood Company and Willits Water and Power Company.
k W. Taft, for Central Mendocino County Power Company.

'IN, *Commissioner*.

OPINION.

this application, Northwestern Redwood Company asks permis- to sell for $23,500, its electric distributing system located in its, Mendocino County, to Willits Water and Power Company. Willits Water and Power Company asks permission to sell for 500 said electrical distributing system, and to sell for $66,500 its r system in the town of Willits to the Central Mendocino County er Company, which requests permission to purchase the combined erties. Both the Northwestern Redwood Company and the Willits er and Power Company are controlled by the same individuals. owners are interested primarily in lumbering operations. They are residents of Willits and do not desire to invest any additional eys in the public utility properties. The Central Mendocino County er Company, on the other hand, is being organized by residents of its and will have a local management. Moreover, it is the intention ıis company, as more fully outlined in the decision in Applications 7999 and No. 8520, to bring additional electrical energy into Willits increase the water supply.

ıe Northwestern Redwood Company owns the electric distributing em in the town of Willits. This system, however, is operated by Willits Water and Power Company and electrical energy supplied ı the Northwestern Redwood Company's plant at Northwestern. Northwestern Redwood Company intends to sell such electric em except the transmission line from Northwestern to the east line Iain street in the town of Willits, and all the property used by hwestern Redwood Company in the town of Willits, exclusively distributing electrical energy to the plant and mill of said North- ern Redwood Company and the premises of Willits Mercantile pany, together with cerain materials and supplies. The property

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that is being retained by the Northwestern Redwood Company is such as is necessary to supply its plants and properties with electric energy. The property which it is selling consists of poles, electric wire circuits, transformers, services, motors, street lighting facilities, together with the furniture, automobiles, tools and supplies used in operating the same. The estimated cost to reproduce the properties is reported by James T. Ryan, a civil engineer, at $27,768 and the reproduction cost, less depreciation, at $22,695. The original cost is reported at $24,832. There are about 560 consumers connected with the electric system.

J. T. Ryan estimates the cost of reproducing the water system at $96,629 and the reproduction cost, less depreciation, at $69,083. The original cost of the system is reported at $67,421. The Railroad Commission, in Decision No. 10576, dated July 12, 1922 (Volume 21, Opinions and Orders of the Railroad Commission of California, page 780), adjusted the water rates of Willits Water and Power Company, and in so doing established a rate base of $66,500. The water properties are being transferred at the rate base figure. They comprise approximately 1723 acres of land, rights of way, diversion works and distribution reservoir, transmission mains, distribution lines, services, meters, materials and supplies, office furniture, equipment and other general capital. There are approximately 300 water users.

Central Mendocino County Power Company estimates that its gross annual revenues, based on earnings for the five preceding years, will be $26,000 from electric sales and $17,500 from water sales, making a total of $43,500. The operating expenses are estimated at not to exceed $17,500, leaving net annual operating revenues of $26,000.

The agreement of sale between Willits Water and Power Company and Central Mendocino County Power Company does not cover cash on hand or in bank and accounts receivable and books of account, the corporation records, papers and files.

The Commission's General Order No. 28 requires that every public utility and common carrier subject to its jurisdiction but not subject to the jurisdiction of the Interstate Commerce Commission shall, from the date of October 10, 1912, preserve all records, memoranda and papers supporting each and every entry in the following general books of such public utilities and common carriers: Voucher register or accounts payable ledger; accounts receivable register, or ledger inventories; vouchers and papers supporting all deeds and title papers; trial balances of all ledgers, general and auxiliary ledgers, general and auxiliary journals, general and auxiliary cash books, all cash papers and journal entries, capital stock ledger, journal subs and all records pertaining thereto, annual reports, minute books; also all records, contracts, estimates and memoranda pertaining to original cost of property and

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additions and betterments, all records pertaining to depreciation and placement of equipment and plant.

There is nothing in the records to indicate that Willits Water and ›wer Company has any intention of destroying its records. It is, wever, asking permission to transfer its properties and retain the :ords that show the cost of such properties and the results of their eration. The records that show the cost of the properties and the sults of their operation should be in the possession of the operating ility, in order that the Commission, if public interest should demand, ıy readily examine such records. The order, therefore, will permit e transfer of the properties subject to the condition that such records are covered by the Comimssion's General Order No. 28 be transrred to the Central Mendocino County Power Company.

I herewith submit the following form of order:

ORDER.

Application having been made to the Railroad Commission by ›rthwestern Redwood Company, Willits Water and Power Company, ıd Central Mendocino County Power Company for an order authorizg the transfer of properties, a public hearing having been held, and e Railroad Commission being of the opinion that the application ould be granted as herein provided;

It is hereby ordered, that Northwestern Redwood Company be and is hereby authorized to sell and transfer its electric distributing stem described in this application to Willits Water and Power Comıny for $23,500, plus the cost of additions and betterments installed ıce November 1, 1922, provided that such records as are covered by e Commission's General Order No. 28 are transferred with the ›operties.

It is hereby further ordered, that Willits Water and Power Comıny be and it is hereby authorized to acquire such properties and to ll them, together with its water properties, described in this applica›n, to Central Mendocino County Power Company for $90,000, plus e cost of additions and betterments installed since November 1, 1922, ›vided that such records as are covered by the Commission's General rder No. 28 are transferred with the properties.

It is hereby further ordered, that Central Mendocino County Power ›mpany be and it is hereby authorized to purchase and acquire the ›operties described in this application.

The authority herein granted is subject to further conditions as llows:

(1) The price at which the properties are herein authorized to be ansferred shall never be urged before this Commission or other court public body having jurisdiction as a measure of the value of the

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properties for fixing rates or for any purpose other than the transfer herein authorized.

(2) Within sixty days after the date of this order Willits Water and Power Company and Central Mendocino County Power Company shall file certified copies of the deeds of conveyance by which they acquire title to the properties that they are herein authorized to acquire.

(3) The authority herein granted will become effective from the date of this order and will expire on June 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of January, 1923.

DECISION No. 11549.

IN THE MATTER OF THE APPLICATION OF DELTA NAVIGATION COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS CAPITAL STOCK.

Application No. 8513.

Decided January 24, 1923.

Sanborn and Rochl and *DeLancey C. Smith*, by *Arthur Rochl*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

Delta Navigation Company asks permission to issue and sell at par ten shares of its capital stock to each of its directors, namely J. P. Irish, Jr., A. R. Roehl, E. Hall, D. C. Smith and W. H. Tuggle; and to issue and sell, at not less than 85 per cent of its par value net, $199,400 of common stock and use the proceeds to acquire the property and floating equipment now being used under the name of "Colberg Launches" in the business of transporting as a common carrier by water, persons and property, between Stockton and points on the Sacramento and San Joaquin rivers and their tributaries.

Applicant was organized on or about April 6, 1921, with an authorized stock issue of $200,000 divided into 20,000 shares of $10 each. The equipment which applicant intends to acquire through the issue

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: $199,400 of its stock is listed in Exhibit "B" filed in this proceeding
ıd appraised at $172,500. The property consists of the following:

INVENTORY OF PROPERTY.

	Appraised value.	
elta No. 2	$18,500 00	
elta No. 3	18,500 00	
elta No. 5	18,500 00	
elta No. 6	18,500 00	
eita	4,500 00	
lamo	9,000 00	
nteros	14,000 00	
ɔuldin	14,000 00	
tockton	10,000 00	
olland	14,500 00	
ɔaquin	10,000 00	
'MC	7,500 00	
rk 1	1,750 00	
rk 2	1,750 00	
rk 3	1,000 00	
rk 4	750 00	
rk 5	1,000 00	
rk 6	1,000 00	
ffice and dock	2,000 00	
uel station	5,750 00	
Total		$172,500 00

The launches named Delta No. 2, No. 3, No. 5 and No. 6 have formerly een operated by the Delta Transportation Company. The other ıunches, equipment and property was formerly operated by Colberg ɔros. The Delta Transportation Company and Colberg Bros. operated ıeir launches at a loss under competitive conditions. On November 6, 921, the owners of the launches entered into a pooling agreement 'hereby the operation of their launches was unified, duplicate opera- ıons eliminated and the service extended.

In Applicant's Exhibit No. 1 the operating revenues and expenses f the properties under the pooling arrangement for the 12 months nding November 6, 1922, is reported as follows:

evenues—		
Passenger	$91,755 42	
Freight	26,396 50	
		$118,151 92
xpenses—		
General expenses	$2,054 35	
Manager's salary	2,614 20	
Oil, gas and distillate	29,583 80	
Labor:		
Boat	30,088 29	
Office	4,375 00	
Dock	4,101 25	
Driver	469 30	
Rent and wharfage	1,846 89	
Repairs	8,910 05	
Automobile expense	598 40	

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Office supplies	$138 10	
War tax	1,202 06	
Other taxes	217 74	
Insurance:		
Fire and general	2,819 11	
Compensation	1,206 55	
Loss and damage claims	60 01	
		$90,285 10
Net revenues		$27,866 82
Allowable depreciation at 5 per cent on value of property as specified in application		8,850 00
Net income		$19,016 82

The net income represents about eleven per cent on the appraised value of the properties as reported by applicant.

Applicant requests permission to issue and sell $199,400 of its stock at not less than 85 per cent of its par value net and use the proceeds to acquire the launches, equipment and properties listed on a preceding page, or to issue and sell the said $199,400 of stock to Benjamin Walters and John T. Currey of Stockton in exchange for the launches, equipment and properties. We believe that applicant should issue stock for the purpose of acquiring the launches, equipment and properties at par and the order herein will permit of the issue of $172,500 of stock for such purpose.

I herewith submit the following form of order:

ORDER.

Delta Navigation Company having applied to the Railroad Commission for permission to issue $199,900 of stock, a public hearing having been held and the Commission being of the opinion that applicant should be authorized to issue $173,000 of stock, and the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that this application should be granted, as herein provided; therefore,

It is hereby ordered, that Delta Navigation Company be and it is hereby authorized to issue $173,000 of common stock. The authority herein granted is subject to the following conditions:

1. Stock in the amount of $172,500 shall be sold by applicant for cash at not less than par and the proceeds used to pay for the launches, equipment and properties described in Exhibit "B" filed in this proceeding and referred to in the foregoing opinion, or may be issued at par to Benjamin Walters and John T. Currey in exchange for said launches, equipment and properties.

2. Stock in the amount of $500 shall be sold by applicant for cash for the purpose of qualifying its directors and the proceeds used as working capital.

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Delta Navigation Company shall keep such record of the issue, and delivery of the stock herein authorized and of the disposition he proceeds as will enable it to file, on or before the twenty-fifth of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, ıade a part of this order.

The authority herein granted will become effective on the date ein but will expire on July 1, 1923.

is hereby further ordered, that this application, in so far as it tes to the issue of $26,900 of stock, be dismissed without prejudice.

he foregoing opinion and order are hereby approved and ordered l as the opinion and order of the Railroad Commission of the State 'alifornia.

'ated at San Francisco, California, this twenty-fourth day of uary, 1923.

DECISION No. 11555.

THE MATTER OF THE APPLICATION OF M. HAYDIS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK EXPRESS SERVICE BETWEEN SAN DIEGO AND EL CENTRO, CALIFORNIA.

Application No. 4174.

THE MATTER OF THE OPERATION BY WM. E. SMITH OF AN AUTOMOBILE TRUCK LINE AS A COMMON CARRIER OF FREIGHT BETWEEN SAN DIEGO AND EL CENTRO, CALIFORNIA.

Case No. 1813.

THE MATTER OF THE APPLICATION OF W. E. SMITH, DOING BUSINESS UNDER THE NAME OF MOUNTAIN EXPRESS, OPERATING A MOTOR FREIGHT LINE BETWEEN SAN DIEGO AND EL CENTRO, FOR PERMISSION TO SELL AND TRANSFER HIS OPERATIVE RIGHTS THEREIN TO PHILIP WAMPLER, WHO DESIRES TO DO BUSINESS UNDER THE NAME OF MOUNTAIN EXPRESS.

Application No. 8265.

THE MATTER OF THE APPLICATION OF P. G. COCHRAN FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER HIS RIGHT, TITLE AND INTEREST IN AN AUTOMOBILE FREIGHT LINE OPERATING BETWEEN BOULEVARD AND SAN DIEGO, CALIFORNIA, TO WILLIAM C. GREENLEAF, AND FOR PERMISSION TO DISCONTINUE HIS SERVICE; AND APPLICATION OF WILLIAM C. GREENLEAF FOR AN ORDER GRANTING PERMISSION TO PURCHASE AND OPERATE SAID AUTOMOBILE FREIGHT LINE THEREAFTER.

Application No. 8249.

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IN THE MATTER OF THE APPLICATION OF WILEY J. GIBSON FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND HIS MOTOR TRUCK LINE FROM EL CENTRO, CALIFORNIA, TO SAN DIEGO, CALIFORNIA, AS A FREIGHT CARRIER.

Application No. 8203.

Decided January 25, 1923.

CERTIFICATES—AUTOMOTIVE COMMON CARRIERS—REVOCATION OF.—The Railroad Commission holds that the abandonment of automotive truck service by a certificate holder who has not secured written authorization from the Commission permitting a cessation of service or the transfer by a certificate holder of his operative right or unauthorized permission by a certificate holder to another individual permitting him to operate a service independently and not as manager or agent for the certificate holder, are all justifiable grounds for revocation of an operative right after notice to the holder of a certificate and a public hearing as required under the provisions of section 5 of chapter 213, Statutes of 1917, as amended.

Warren E. Libby, for Wiley J. Gibson, Applicant.
H. C. Liggett, for P. G. Cochran and W. C. Greenleaf, Applicants.
H. J. Bischoff, for W. E. Smith, Defendant, and W. E. Smith and Philip Wampler, Applicants.
J. W. Puterbaugh, for W. J. Lusted, Protestant.
F. B. Dorsey, for San Diego and Arizona Railway, Protestant.
M. C. Binnard, for Jas. P. Larsen, Protestant.
C. A. Council, for American Railway Express, Protestant.

BY THE COMMISSION.

OPINION.

Under date of September 20, 1922, this Commission issued its order to M. Haydis to appear and show cause, if any he had, why the certificate heretofore granted him under Decision No. 6318 on Application No. 4174 (decided May 12, 1919) should not be revoked and annulled because of alleged transfer of said certificate to other parties without written consent of this Commission.

Under date of September 20, 1922, this Commission issued its order to Wm. E. Smith to appear and show cause, if any he had, why the certificate heretofore granted him under Decision No. 10144 on Application No. 7435 (decided March 6, 1922) should not be revoked and annulled because of alleged permission to another party to operate under said certificate without first securing the written authorization of the Railroad Commission to the transfer thereof.

W. E. Smith has applied to the Railroad Commission for approval of a sale and transfer of his operative rights heretofore granted by the Railroad Commission by Decision No. 10144 to Philip Wampler for and in consideration of the sum of $1,168.89. Wampler joins in the application.

P. G. Cochran has applied to the Railroad Commission for authority to sell and transfer the operative rights granted to him by this Com-

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ission under Decision No. 8947 to William C. Greenleaf for and in nsideration of the sum of $500. Greenleaf joins in the application.

Wiley J. Gibson has applied to the Railroad Commission for a certifite of public convenience and necessity to extend his motor truck line om El Centro to San Diego.

A public hearing was conducted by Examiner Williams at San Diego t which the foregoing matters were by stipulation of all parties conlidated for the receiving of evidence and decision and were duly ubmitted following the filing of briefs by counsel.

This hearing brought before the Commission a review of automoile transportion between San Diego and Imperial Valley since 1918. he distance between the points over what is known as Mountain Grade , approximately 117 miles. There are two divisions on the route, one etween San Diego and Boulevard, which is of ordinary operation, the ther between Boulevard and El Centro which involves somewhat diffiult mountain operation. The testimony was exhaustive in character nd puts the Commission in complete possession of all the facts relating o regulated service over this route under the law for several years.

It is apparent from the testimony that since 1918 a great deal of the reight moved between the termini has been transported by illegal peration. The effect of this illegal operation has been an injury to the stablished operation of legal carriers. Under this disadvantage their usinesses were conducted largely at a loss and frequently passed from ne operator to another in an effort to establish profitable operation. t is fair to conclude from the testimony that regulated operation sellom was profitable.

The testimony abundantly and conclusively shows that illegal operaion was conducted at various times by P. G. Cochran, William C. reenleaf and Philip Wampler, each an applicant in the present proeedings. The attitude of ignorance of the law herein assumed by these pplicants is not, we believe, fairly supported by the testimony and he recital of the circumstances surrounding their operation. It is also vident that some of those entrusted with legal certificates permitted uch certificate rights to be used as cloaks for illegal operation and hat sales of operating rights, without authorization of this Commission, vere made to some of the very persons who now claim ignorance of nowledge of their legal duty to present the transaction before this ommission for approval.

The pioneer of the auto freight operators between San Diego and l Centro was M. Haydis. After several years of so called "contract" auling between these points and others enroute, Haydis made appliation to the Commission in October, 1918, and received a certificate nder Decision No. 6318 in May, 1919. Before this C. D. Boynton

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had established the Boulevard Express which possessed prescriptive rights between San Diego and Boulevard. The Mountain Express which was operated by C. H. Hemme between San Diego and El Centro was under a prescriptive right existing at the time the Haydis certificate was granted. By the terms of the Haydis certificate he was restricted from doing business between San Diego and Boulevard. Testimony shows that in May, 1921, Haydis purported to sell to Philip Wampler, applicant herein, this operative right. Wampler paid $100 down and subsequently paid $50 for attorney's fee in order that the application for transfer could be prepared. Later, however, Wampler was advised by Haydis that the certificate had been sold to W. C. Greenleaf and others, the said Greenleaf being now an applicant herein. Shortly after this, P. G. Cochran, one of the applicants herein, through a similar transaction took over the operation of the Boulevard Express from C. D. Boynton and later he and Wampler formed a partnership and continued the operation under alleged rights as contained in the Haydis certificate and Boulevard prescriptive right. After operating about a year Cochran applied to the Commission for a transfer of the certificate to him and this application was granted, *ex parte,* by the Commission, Decision No. 8947 on Application No. 6745. December 28, 1921, Haydis made application No. 6439 to this Commission to transfer his certificate to Steele Brothers but this application subsequently was dismissed (Decision No. 8719, dated March 9, 1921). During all this period no attempt was made by Haydis to either operate under his certificate or legally transfer the same except as shown by the Steele application. Nor did he answer the order of the Commision to appear in the present proceeding and show cause why the certificate should not be revoked. The evidence is conclusive that the Haydis operation was abandoned by him on or about May, 1921, without the authority of the Commission, and that because of such unauthorized discontinuance the certificate granted him under Decision No. 6318 should be revoked and annulled and an order will so be made.

It is also found that for a year or thereabouts before filing Application No. 8249, to transfer his certificate for the operation of the Boulevard Express P. G. Cochran, applicant herein, had abandoned his operation under the purported sale of his certificate to W. C. Greenleaf without authority of the Commission. In considering the application to now transfer to Greenleaf the operating rights we hereby find as a fact that Cochran has now no operating right that may be transferred and Application No. 8249 therefore must be denied. Cochran testified at the hearing and his testimony fully justifies the Commission in revoking the certificate granted to him by Decision No. 8947, dated May 6, 1921, and the order will so provide.

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ı Case No. 1813, William E. Smith is ordered to appear and show se why his certificate under Decision No. 10144 dated March 6, 1922, ıld not be revoked. In Application No. 8265 Smith seeks to transfer certificate thus questioned to Philip Wampler. Smith did not ear at the hearing, except by attorney, and no request for a con-ance to give the Commission the benefit of his testimony was made. atever testimony is before us in Case No. 1813 was produced indi-ly in behalf of applicants Wampler and Gibson.

mith's certificate rights which were operated under the fictitious ıe of the Mountain Express, were acquired by him under proper ıority from Thomas M. and Maude Turner by Decision No. 10144 Application No. 7435, decided March 6, 1922. Testimony intro-ed in this proceeding showed that the Turners were badly in debt had not accounted to shippers for many C. O. D. collections. ith assumed all of the debts then existing as a consideration for transfer of the certificate. It appears that soon after Smith became possessor of these rights he moved to the Wampler terminal and reafter, at least for several months, Wampler's equipment was ized, a large part of the time exclusively, in operating under Smith's ıts. During this period the testimony shows that Wampler con-ted the operation of the Mountain Express; that he collected ıies due it, and banked the funds in his own name; that his trucks e known over the route as "Wampler's Truck Line"; that con-ıees made checks payable to "Wampler's Truck Line," or to mpler individually. The testimony of C. L. Camp, L. W. Smith, D. Johnson, J. R. Fowble and others and the testimony of Wampler, ıself, support this conclusion.

n his testimony Wampler said:

> "My equipment was all leased to them (Mountain Express) and I made collections throughout the hills. I worked for them, I received no salary, I had all my trucks leased to the Mountain Express and part of my work was to take care of my own equip-ment."

Wampler further testified that he began hauling in July, 1920, over art of the distance between San Diego and El Centro. He testified:

> "I first operated the mountain division of the Boulevard Express, the Cochran line."

What was your relation with Mr. Cochran?

> "We were operating a partnership business, he supplying the franchise or permit to haul from the Boulevard Express on the mountain division. We operated that way until, I think it was May of the following year, 1921. I made an agreement with Mr. Haydis to purchase the Haydis franchise and I operated on the

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Haydis franchise until he informed me that he had found another purchaser and that he had never made an application for a transfer."

The testimony of Wampler further showed that he had paid Haydis $100 in May, 1920, on the making of the agreement and later paid Haydis's attorney $50 to prepare the application for transfer which, he admitted, Haydis said would be necessary.

It is clear that Wampler knew generally how to validate such a transaction in May, 1920, yet in July of that year he began operation with Cochran as far as Boulevard. The testimony further shows that Cochran left San Diego in the fall of 1921 and that Wampler continued to operate thereafter under the Cochran certificate until he abandoned the Boulevard service to Greenleaf.

The testimony is convincing that Wampler, since July, 1920, has been operating his trucks over all or part of the route between San Diego and El Centro; that he operated first under color of the Haydis certificate, then for a time under both Haydis certificate and Boulevard prescriptive right, later under the Cochran certificate and finally under the Smith certificate, under the fictitious name of Mountain Express. In view of the fact that he was aware in May, 1920, that the law required the necessary authorization by this Commission to make any such operation valid we must assume that he knew what he was doing and that he preferred to illegally operate rather than to seek either a valid transfer, or an original certificate to operate. It is also fair to assume that his "lease" to Smith, which included his equipment, his own service without salary, and his ability to divert the accounts due Smith, or the Mountain Express, into funds payable to "Wampler Truck Line" or Wampler individually, was a continuation of the same kind of illegal relationship previously maintained by him with other certificate rights.

The testimony shows that Smith made a failure of the operation of the Mountain Express. The trucks taken over from the Turner's were forfeited to their legal owners because of delinquent payments and other property he had was attached by creditors; he did not pay his employees and it is in testimony that some collected C. O. D. charges were not turned over to consignors. Finally, according to the testimony of L. H. Dunbar, bookkeeper for both Smith and Wampler, Smith refused to accept any obligation against the line after August 25, 1922, on which date Smith designated Wampler as manager.

The verbal lease arrangement existing prior to August 25, 1922, by which the Wampler trucks were used by Smith in the operation of the Mountain Express called for a rate per trip, per truck, between termini and as has been noted previously in this decision Wampler

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ollected the money due, or at least a large part of same on a number f shipments. The evidence shows that no accounting was had at any me between Wampler and Smith, nor had there been an accounting fter August 25, 1922, up to the time of hearing hereon as to Wampler's lleged management of Smith's "operation." Wampler agreed to ssume $1,168 of Smith's debts, some of them being due to employees or wages or truck hire as the consideration for the transfer. These ere all obligations prior to August 25, 1922. The application of mith to transfer to Wampler bears a signature date of September 6, 922, but was not verified until September 18, 1922, and was not filed ith the Commission until September 20, 1922. These dates assume me importance—or interest at least—because Application No. 8203 f Wiley J. Gibson, to operate between San Diego and El Centro, was led with the Commission August 25, 1922.

We find as a fact, and established by the testimony herein, that Smith id turn over and abandon to Wampler the operation of the Mountain Xpress under certificate granted by Decision No. 10144 on or before ugust 25, 1922, and that because of such action and other facts eretofore stated, the certificate as granted should be revoked and the rder will so provide. Further, this conclusion must carry with it enial of Application No. 8265 of Philip Wampler to transfer. Accordng to the testimony Wampler is not a proper person to be entrusted ith such a privilege.

The conclusions so far reached eliminate all the present operators etween San Diego and El Centro and leaves only for consideration pplication No. 8203 of Wiley J. Gibson, as consolidated herein for etermination. This applicant is now operating a freight service etween Holtville and El Centro and is familiar with the operative eeds between El Centro and San Diego. He proposes daily service, xcept Sundays and holidays, from each terminal, with a ten hour chedule in transit between termini. He proposes to serve Seeley, Dixieland, Coyote Wells, Mountain Springs, Jacumba, Boulevard, Newtown, Indian Reservation, Campo, Bingville, Potrero, Dulzura, amul and intermediate points. He proposes to use four trucks of ten ons total capacity and to add such other equipment as may be necesary. Question as to his financial ability to conduct this operation and o provide adequate equipment was raised at the hearing but we are f the opinion based on the evidence that his present equipment with easonable additions, which he apparently is able to make, will give a atisfactory service if same is supported by the patronage of the shiping public. Applicant, Gibson, comes before the Commission with lean hands and with a demonstrated operating efficiency as regards is present route and it is our opinion that the certificate sought should

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be granted, under such conditions and obligations as will be set forth in the following order.

ORDER.

An order having been issued on September 20, 1922, to M. Haydis to show cause why the certificate of public convenience and necessity heretofore granted to him under his Application No. 4174 by Decision No. 6318 should not be revoked, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised and basing its order on the findings of fact as set forth in the opinion preceding the order;

It is hereby ordered, that the certificate of public convenience and necessity heretofore granted by the Commission by its Decision No. 6318 on Application No. 4174 (decided May 12, 1919) granting to M. Haydis the right to operate an automobile truck line as a common carrier of freight between San Diego and El Centro and Calexico, Heber, Holtville, Brawley, Imperial and intermediate points, be and the same hereby is revoked and canceled and that no further operation by M. Haydis may be given over the route as hereinbefore referred to.

An order having been issued on September 20, 1922, to William E. Smith to show cause why a certificate of public convenience and necessity heretofore acquired by him from Thomas M. and Maude Turner should not be revoked, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised and basing its order upon the findings of fact as set forth in the opinion preceding this order;

It is hereby ordered, that the certificate of public convenience and necessity heretofore acquired by said William E. Smith by transfer from Thomas M. and Maude Turner, approved by this Commission by its Decision No. 10144 on Application No. 7435 (dated March 6, 1922), granting and approving transfer of said certificate to operate automobile freight truck service between San Diego and El Centro, be and the same hereby is revoked and canceled, and that no further operation by said William E. Smith may be given over the route as herein referred to.

William E. Smith having applied to this Commission for authority to transfer to Philip Wampler his certificate of public convenience and necessity to operate automobile freight service as a common carrier between San Diego and El Centro, as authorized by this Commission by its Decision No. 10144 on Application No. 7435 (decided March 6, 1922), a public hearing having been held, the matter having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact set forth in the opinion preceding the order;

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It is hereby ordered, that this application be and the same hereby is denied.

P. G. Cochran having applied to this Commission for authority to sell and transfer to W. C. Greenleaf all his right, title and interest in an automobile freight truck line between San Diego and Boulevard, acquired by said Cochran from C. D. Boynton by Decision No. 8947 on Application No. 6745 (decided May 6, 1921), a public hearing having been held, the matter having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact set forth in the opinion preceding this order;

It is hereby ordered, that this application be and the same hereby is denied.

It is hereby further ordered, good cause having been shown that the certificate of public convenience and necessity transferred from said Boynton to said Cochran by said Decision No. 8497 on Application No. 6745 (decided May 6, 1921), be and the same hereby is revoked and canceled and that no further operation by said Cochran or said Greenleaf may be given over the route herein above referred to.

Wiley J. Gibson has applied to this Commission for a certificate of public convenience and necessity to operate an automobile truck service between El Centro and San Diego, as a common carrier, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the service as herein proposed by applicant over and along the following route:

Leaving San Diego traveling east on Imperial Avenue, thence via county highway through Encanto and Lemon Grove, thence branching off on the Spring Valley road, thence over the county highway through Spring Valley, Jamul, Dulzura, Potrero and Campo, joining the state highway at Newtown, thence over said state highway through Jacumba and Mountain Springs to El Centro,

and that a certificate therefor be and the same hereby is granted upon the following conditions:

1. That applicant, Wiley J. Gibson, shall file within fifteen (15) days from date hereof, his written acceptance of the certificate herein granted, and shall file within thirty (30) days of the date hereof, duplicate tariff of rates and time schedules, in accordance with General Order No. 51 of the Railroad Commission, and shall begin operation within thirty (30) days from date hereof.

2. That applicant, Wiley J. Gibson, shall not sell, lease, assign or discontinue the service herein authorized, unless such sale, lease, assignment or discontinuance shall have been authorized by the Railroad Commission.

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3. That no vehicle shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

It is hereby further ordered, that secretary of the Railroad Commission be and he hereby is directed to forward by registered mail, a certified copy of this decision to the District Attorneys of Imperial and San Diego counties.

Dated at San Francisco, California this twenty-fifth day of January, 1923.

DECISION No. 11558.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE NINETY THOUSAND DOLLARS PAR VALUE OF ITS FIRST MORTGAGE SIX PER CENT SINKING FUND FORTY-YEAR GOLD BONDS AND TO SELL THE SAME AT A PRICE OF EIGHTY-NINE PER CENT OF THEIR PAR VALUE, PLUS ACCRUED INTEREST.

Application No. 8577.

January 25, 1923.

Leo H. Susman, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Contra Costa Gas Company asks permission to issue and sell, at not less than 89 per cent of their face value and accrued interest, $90,000 of first mortgage 6 per cent bonds due October 1, 1954, and use the proceeds to pay part of a $90,000 note held by the Mercantile Trust Company of California.

Contra Costa Gas Company was organized on or about June 30, 1914, and has an authorized stock issue of $500,000, divided into $250,000 of common and $250,000 of 7 per cent cumulative preferred. None of the preferred stock has been issued. Of the common stock, $111,150 is outstanding. The company has an authorized bonded debt of $500,000, of which $159,000 was outstanding on November 30, 1922. The $159,000, however, includes $6,400 of bonds reacquired by the company and held alive in the sinking fund under the provisions of the mortgage or deed of trust securing the payment of the bonds.

Applicant sells gas in the cities of Martinez, Concord, Pittsburg, Antioch, Crockett and vicinities. It reports approximately 2680 consumers connected with its system. In Decision No. 9725, dated November 8, 1921, the Railroad Commission used for the year ending June 30, 1922, a rate base of $362,500.

In "Exhibit B" filed in this proceeding, applicant reports that it has, to November 30, 1922, expended for plant extensions, additions and

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etterments the sum of $115,579.49. Of this expenditure, $3,445.19 as incurred prior to January 1, 1918, and the remaining expenditure f $112,134.30 was incurred from January 1, 1918, to November 30, 922, inclusive. S. Waldo Coleman, president of Contra Costa Gas ompany, testified that the $115,579.49 represented a net increase in ıe company's captital expenditures and that no stock or bonds had een issued by the company against such expenditures. A summary f the expenditures distributed to the various capital accounts is conıined in applicant's "Exhibit B."

For the year ending November 30, 1922, applicant reports its earnıgs, operating and general expenses as follows:

arnings		$124,595 92
perating expenses		75,375 71
		$49,220 21
eneral expenses, including taxes		16,548 40
Leaving net earnings of		$32,671 81
eductions:		
Bond interest	$9,540 00	
Other interest	5,691 11	
Amortization of bond discount and expense	422 40	
Depreciation	8,900 00	
Total deductions		24,553 51
Surplus for year		$8,118 30

Applicant reports net earnings available for depreciation and return f $32,671.81 for the year ending November 30, 1922. If it issues the 90,000 of bonds covered by this application, its annual interest charges ill be $14,940. Through the issue of the bonds, the company will efund the $90,000 note and through such refunding eliminate from ts income statement all, or substantially all, of its miscellaneous or ther interest payments which, for the year ending November 30, 1922, re reported at $5,691.11.

I herewith submit the following form of order:

ORDER.

Contra Costa Gas Company having applied to the Railroad Commission for permission to issue $90,000 of bonds, a public hearing having een held and the Railroad Commission being of the opinion that the noney, property or labor to be procured or paid for by such issue is easonably required by applicant and that the expenditures herein uthorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Contra Costa Gas Company be and it is ıereby authorized to issue and sell, at not less than 89 per cent of heir face value and accrued interest, $90,000 of 6 per cent bonds due

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October 1, 1954, and to use the proceeds obtained from the sale of such bonds to pay, in part, the $90,000 note held by the Mercantile Trust Company of California and referred to in this application.

The authority herein granted is subject to further conditions as follows:

(1) Contra Costa Gas Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to $90, but will expire on June 30, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of January, 1923.

DECISION No. 11563.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF TWENTY MILLION DOLLARS AND SELL AND DISPOSE OF SUCH NOTES IN THE FACE VALUE OF FIVE MILLION DOLLARS.

Application No. 8331.

Decided January 25, 1923.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Western States Gas and Electric Company, in its second supplemental petition filed in the above entitled matter, asks permission to use $355,762 of the proceeds obtained from the sale of the notes authorized by Decision No. 11123, dated October 18, 1922, as amended, to refund sinking fund payments and to finance construction expenditures made prior to November 30, 1922.

In Decision No. 11123 the Commission authorized Western States Gas and Electric Company to issue and sell for cash, at not less than 91½ per cent of face value and accrued interest, $5,000,000 of Series "A" 6 per cent notes due November 1, 1937, or interim certificates of like amount. The order of the Commission permitted the company to use such amount of the proceeds as might be found necessary to pay

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or refund the $1,199,000 of 6½ per cent collateral trust notes due August 1, 1923, and the $2,668,000 of 6 per cent notes due February 1, 1927, but provided that the remainder of the proceeds be deposited with a bank or banks or with a trust company or companies and expended only for such purposes as the Commission might authorize.

Applicant now reports that during the months of October and November, 1922, it expended for construction purposes the sum of $115,558.76, as shown in some detail in Exhibit No. 2 attached to the supplemental petition. It appears that a portion of these expenditures has already been paid or provided for through the issue of stock or bonds but that there remains a balance of uncapitalized construction expenditures, on November 30, 1922, of $97,081.87. The company asks that it be authorized to use $97,000, received from the sale of its notes to finance, in part, these reported expenditures.

Applicant reports that since December 1, 1919, it has paid into its various sinking funds the sum of $808,123.75, which has been used to retire $956,000 of bonds.

The Commission has heretofore authorized applicant to issue $440,400 of 7 per cent preferred stock to refund sinking fund payments. Deducting the $440,400 from the $956,000 leaves $515,600 of bonds which have not been refunded. Applicant asks permission to use the proceeds from $282,800 of 6 per cent notes to refund its sinking fund payments. We believe that the amount of proceeds from the notes used for such purpose should be determined by assuming an interest rate of 7 per cent rather than 6 per cent. Applicant may use the proceeds from $242,457 of the notes to refund sinking fund payments.

The Commission has given consideration to applicant's request and believes it should be granted, as herein provided; therefore,

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to withdraw $318,848 of the proceeds obtained from the sale of the Series "A" 6 per cent notes authorized by Decision No. 11123, dated October 18, 1922, as amended and to use $97,000 of such proceeds to finance, in part, construction expenditures made prior to November 30, 1922, and $221,848 (proceeds from $242,457 of notes) to reimburse its treasury because of surplus earnings used to make sinking fund payments since December 1, 1919, or to pay current indebtedness incurred in making such sinking fund payments.

It is hereby further ordered, that the order in Decision No. 11123, dated October 18, 1922, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-fifth day of January, 1923.

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DECISION NO. 11564.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING FIVE PER CENT GOLD BONDS IN THE AMOUNT OF FOUR MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS.

Application No. 8329.

Decided January 25, 1923.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

The Railroad Commission on October 14, 1922, by Decision No. 11104, authorized Southern California Edison Company to issue and sell, at not less than 90½ per cent of their face value, plus accrued interest, $4,840,000 face value of general and refunding mortgage 5 per cent gold bonds of the "Series of 1919," due February 1, 1944. The order of the Commission, as amended from time to time, has permitted the company to use $2,536,136.74 of the proceeds received from the sale of the bonds to retire $592,000 face value of bonds of The Edison Electric Company, due September 1, 1922, and to finance construction expenditures.

In a supplemental petition filed in the above entitled matter on January 20, 1923, and in Exhibit No. 3 filed in connection therewith, the company reports its Big Creek development expenditures during December, at $1,545,984.75, and an expenditure of $500,000 in payment of Shaver Lake Lumber Company bonds, making a total expenditure of $2,045,984.75. Applicant has available from the sale of bonds the sum of $1,844,063.26. It asks permission to use this sum to finance permanently $1,844,063.26 of the construction and other expenditures reported in Exhibit No. 3.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use $1,844,063.26 of the proceeds obtained from the sale of the bonds authorized to be issued by Decision No. 11104, dated October 14, 1922, to finance the construction and other expenditures reported in the supplemental petition filed in this proceeding on January 20, 1923, and in Exhibit No. 3 filed in connection therewith.

It is hereby further ordered, that the order in Decision No. 11104, dated October 14, 1922, as amended, shall remain in full force and effect except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-fifth day of January, 1923.

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DECISION No. 11565.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING TWENTY-FIVE YEAR FIVE PER CENT GOLD BONDS TO THE AMOUNT OF NINE MILLION FOUR HUNDRED EIGHT THOUSAND DOLLARS FACE VALUE.

Application No. 8591.

Decided January 26, 1923.

Roy V. Reppy, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

Southern California Edison Company asks permission to issue $9,408,000 face value of general and refunding mortgage 5 per cent 25-year gold bonds of the "Series of 1919," due February 1, 1944, and use the proceeds to pay for extensions, additions and betterments to its plants and properties.

Southern California Edison Company as of November 30, 1922, reports the following amounts of stock outstanding:

Subscribed—common	$4,997,600 00
Preferred	5,319,000 00
Common	48,755,100 00
Subscribed—Common	4,997,600 00
Total	$63,071,700 00

Of the $48,755,100 of common stock, $10,836,628 is controlled by the company through ownership of Pacific Light and Power Corporation stock, leaving net common stock outstanding in the sum of $37,918,472. In addition to the above, the company reports $3,192,500 of common stock and $134,400 of preferred stock contracted for under installment contracts.

The company is paying 8 per cent dividend on its original preferred, 7 per cent on its preferred, and 8 per cent on its common stock.

As of November 30, 1922, Southern California Edison Company reports a total funded debt of $80,668,700. In addition to this funded debt, it has guaranteed the payment of $621,000 of Shaver Lake Lumber Company bonds.

Applicant in its Exhibit No. 2 reports its estimated construction expenditures for 1923 at $26,000,000. This estimated expenditure is summarized by applicant as follows:

Big Creek Construction.

Third Unit Power House No. 1	$920,000 00
Big Creek No. 3	9,082,000 00
Huntington Lake–Pitman Creek tunnel	800,000 00
Florence Lake tunnel	3,180,000 00
Shaver reservoir	527,000 00
Subtotal	$14,509,000 00

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Less undistributed miscellaneous construction expenditures, prior to 1923, included in above item	$2,658,000 00	
Total net production, 1923		$11,851,000 00
Transmission lines		4,149,000 00
Miscellaneous system betterments		10,000,000 00
Total		$26,000,000 00

The $10,000,000 of miscellaneous system betterments includes $1,353,500 for transmission lines, $424,100 for transmission stations, $4,853,800 for distribution lines and $2,312,500 for distribution stations. Applicant's Exhibit No. 2 contains a segregation of the estimated expenditures.

Applicant asks permission to use approximately $1,000,000 of the proceeds from the sale of the bonds to reimburse its treasury on account of capital expenditures against which no securities have been issued and to use the remaining proceeds to pay, in part, the cost of constructing the extensions, additions and betterments reported in its Exhibit No. 2.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue $9,408,000 of 5 per cent bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell, for not less than 90 per cent of their face value and accrued interest, $9,408,000 of general and refunding mortgage 5 per cent 25-year gold bonds of the Series of 1919, due February 1, 1944.

The authority herein granted is subject to further conditions as follows:

1. The proceeds shall be used by applicant to finance, in part, such cost of the extensions, additions and betterments reported in its Exhibit No. 2 and construction expenditures incurred as are properly chargeable to capital account under the system of accounts prescribed or adopted by this Commission and not financed through the issue of stock or bonds.

2. Applicant shall file with the Commission during 1923 a monthly report showing in detail the amount expended for extensions, additions and betterments.

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3. Applicant shall keep such record of the issue and sale of the bonds ein authorized and of the disposition of the proceeds as will enable to file, on or before the twenty-fifth day of each month, a verified ort, as required by the Railroad Commission's General Order No. 24, ich order, in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the payat of the fee prescribed by section 57 of the Public Utilities Act ; will expire on July 15, 1923.

The foregoing opinion and order are hereby approved and ordered d as the opinion and order of the Railroad Commission of the State California.

Dated at San Francisco, California, this twenty-sixth day of Janu-, 1923.

Decision No. 11566.

THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND ITS SERVICE TO THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA.

Application No. 7982.

Decided January 26, 1923.

TIFICATES—AUTO STAGE LINES—OPERATION OVER FERRY BOATS—JURISDICTION.—The Railroad Commission holds that it has jurisdiction to act upon an application for a certificate of public convenience and necessity in which an automobile stage line petitions for a certificate authorizing the operation of automobile stages as common carriers of passengers over a route, being included in a portion thereof, the transportation of such automobile stages over an automobile ferry operated by another common carrier, irrespective of the fact that operation as applied for would be in competition with the rail line of the common carrier operating the automobile ferry. The granting of such an application is merely a permissive authorization and cannot be considered as in the nature of an order directing the boat carrier to transport the automotive vehicle of the motor carrier.

TIFICATES—OPERATION SOLELY WITHIN LIMITS OF A SINGLE MUNICIPALITY.—An application to extend an existing automotive transportation service from one municipality to another where the line in question must be transported by ferry boat between the two municipalities does not constitute operation solely within the limits of a single municipality as defined in section 1, subsection (c) of chapter 213, Statutes of 1917, and amendments thereto.

tter, Hancock and Rutherford. by *John Hancock*, for the Applicant.
ert L. Whittle, for the San Francisco-Oakland Terminal Railways.
se H. Steinhart and *John J. Goldberg*, for the San Francisco-Sacramento Railroad Company.
lin and Brookman, for H. T. Hempstead and N. F. Rawlings, doing business under the fictitious name of Oakland-San Francisco-Los Angeles Transportation Company.
H. Cogarty and *F. B. Austin*, for the Southern Pacific Company.
tt Kent, for The Atchison, Topeka and Santa Fe Railway System.
V. Degnan, for the City Engineer's Office of the City and County of San Francisco.
h Mann, for the San Francisco Chamber of Commerce.
W. Dooling, for the Western Pacific Railroad Company.

RTIN, *Commissioner.*

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OPINION.

The California Transit Company, a corporation, operates automobile stages as a common carrier of passengers between Oakland, Sacramento, Stockton, Merced and various intermediate points, all within this state.

By its present application, it seeks authority to operate its auto stages from the city of Oakland to the city of San Francisco and from the city of San Francisco to the city of Oakland. It alleges, however, that it does not intend to transport local passengers between Oakland and San Francisco, but desires only to transport through passengers, which it carries from interior points to the city of Oakland and who desire to travel to San Francisco, and likewise only through passengers which it carries from San Francisco through Oakland, destined for interior points. It does not propose to charge any additional fare for the extra service rendered or to accept for transportation across the Bay, passengers originating at or destined to points west of Livermore. In effect, therefore, the application is one to extend the operation of existing lines from the present terminus in Oakland to a terminus in San Francisco. Public hearings were held upon this application on August 17, 24, 25 and 26, 1922, at San Francisco, briefs have been filed and the matter is now ready for decision.

The protestants, Southern Pacific Company and the San Francisco-Oakland Terminal Railways have raised certain objections to the jurisdiction of the Railroad Commission to grant the relief herein prayed for. The first of these objections is that it will be necessary for the applicant, in order to operate into San Francisco, to travel on protestants' ferry boats across San Francisco Bay and that these ferries do not constitute "public highways" within the meaning of section 1, subsection (*d*), chapter 213, Statutes of 1917, as amended.

We do not believe that the question whether ferries operating back and forth across the bay constitute public highways or not, has any bearing upon this application. In order to transport its passengers from interior points of California to San Francisco, applicant must provide some method for crossing San Francisco Bay. What that method will be it is not necessary in the present case to determine. This is not an application for permission to use protestants' ferries, but is an application to extend certain operative rights from Oakland to San Francisco. In order to extend its operative rights in the manner sought, applicant must of necessity use certain public streets both in Oakland and San Francisco in addition to crossing San Francisco Bay, which is also a public highway in legal contemplation. A certificate of public convenience and necessity must therefore be obtained. The fact, if it be a fact, that applicant must use protestants' ferry boats, does not deprive the Railroad Commission of jurisdiction to hear and determine this application.

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It was also contended by protestants that the Commission was without jurisdiction to grant the application because the proposed extensions of applicant's operations involves a service exclusively within the limits of an incorporated city and that under the provisions of section 1 (c) of the above mentioned statute, the Commission has no jurisdiction over such operations. Under the facts as above set out it is clear that this objection is not well taken. The proposed service will not in any sense be a local service. It will be a through service between San Francisco and Merced and certain intermediate points. This is expressly what the applicant asks for. A certificate authorizing applicant to operate merely between Oakland and San Francisco would not authorize the through service here sought. The Commission has held in Decision No. 9892, *In re Western Motor Transport Company*, that no stage line can operate a through service by linking up two authorized connecting routes without first securing a certificate of public convenience and necessity authorizing such through operation. It is necessary, therefore, in this case that applicant obtain a certificate from the Commission before operating a through line from San Francisco to Merced and intermediate points. Operations extending from San Francisco to Merced are certainly not exclusively within the limits of any incorporated city. There can be no doubt that the Commission has jurisdiction to grant a certificate which will authorize auto stage operations over the streets of a municipality where such operations are carried on as a portion of a longer route which is not wholly within such municipality.

The third objection to the Commission's jurisdiction is that a certificate authorizing the proposed operations would, in effect, require one public utility to permit the use of its facilities by another. This contention is based upon the claim that applicant, in the exercise of its rights under the desired certificate, would necessarily use the automobile ferry of the Southern Pacific Company in taking its stages and passengers across San Francisco Bay. We are unable to agree with this contention. The certificate of public convenience and necessity which the Commission grants is permissive. Any right of applicant to use the ferry facilities of the Southern Pacific Company is derived from the duty which that company, as a common carrier, owes to the general public seeking to use such facilities. It is not necessary nor would it be proper in this proceeding to determine the extent of the Southern Pacific's obligation to carry vehicles upon its automobile ferry. It may be observed, however, that evidence was submitted indicating that the Southern Pacific Company has filed tariffs, quoting fares, rates, rules and regulations governing operations of vehicular ferries from both its Oakland pier and its so-called harbor route pier, and

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that these tariffs contain no prohibition respecting the transportation of motor equipment of auto stages.

On the question of public convenience and necessity the applicant, in addition to the filing of numerous exhibits, also called some 28 witnesses in support of its petition. The exhibits in the main consisted of a letter from the Commercial Travelers Association endorsing and recommending the proposed service, another of the same nature from the Pacific Coast Commercial Travelers Association, resolutions from the public utility committee of the board of supervisors of the city and county of San Francisco, the Livermore Chamber of Commerce and the Fresno Advertising Club endorsing and recommending the service as proposed by applicant.

Seth Mann, head of the traffic department of the Chamber of Commerce of San Francisco, testified that in his opinion the establishment of service as proposed would be a material benefit not only to the traveling public of San Francisco, who use the stage service of applicant, but also all patrons of this stage line who desire transportation to and from San Francisco.

In addition to certain employees of applicant, who testified to complaints which they received due to the fact that they were obliged to find their way to and from San Francisco to the stage depot of applicant situated in the city of Oakland, applicant produced a number of witnesses, patrons of their stages, who testified that it would be very convenient for them if the stages would operate into the city of San Francisco. There was considerable evidence that passengers particularly women with babies or with grips or baggage were put to considerable inconvenience when reaching the stage terminal at Oakland through being obliged to change to the electric train and then to the ferry boat and from the ferry to their destination.

The Southern Pacific Company called its general passenger agent who stated in his opinion the establishment of service as proposed would merely take away from the Southern Pacific patronage which was now enjoyed by the railroad company and that there is no actual need of operation into the city of San Francisco; that the Southern Pacific Company rendered a frequent and efficient interurban service between the Ferry Building and its Fourteenth and Franklin street depot, which is directly opposite the stage depot of applicant herein.

The Southern Pacific official in charge of floating equipment also testified as to conditions regarding the operation of ferry boats transporting vehicular traffic between Oakland and San Francisco and the difficulty arising during the rush hour in caring for all of this class of traffic offered them for transportation, quoting occasions on which a number of machines and trucks were obliged to wait due to the fact that the ferry boat was loaded to capacity.

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he San Francisco-Oakland Terminal Railways presented testimony
o the service rendered by their company between San Francisco
Twelfth and Broadway and Twelfth and Franklin streets, Oakland,
latter point being two blocks distant from the depot of applicant
ein.

he Southern Pacific Company operates five trains per hour during
day time, two by way of Alameda pier and three by way of Oakland
. During the evening hours, however, this service is somewhat
uced. The San Francisco-Oakland Terminal Railways operate three
ns per hour along Twelfth street during the day time with the
eption of the rush hour in the evening when a fifteen minute head-
is maintained. This service also is reduced during the evening.

nquestionably there is frequent interurban service from points
r the stage depot of applicant and the Ferry Building, San Fran-
o, and there can be no doubt that no necessity has been shown for
itional service merely between Oakland and San Francisco. In
case, however, we are considering the convenience of passengers
veling on stages from the interior of California and desiring to go
San Francisco. Obviously it would be a convenience to such pas-
gers to remain on the stage until they reach their destination and
be relieved of the inconvenience of leaving the stage at Oakland
taking the electric car and then changing again to the ferry to
h San Francisco. It would be equally convenient for passengers
n San Francisco destined to interior points. Such passengers would
it a material advantage to be able to board the stage in San
ncisco and travel to their destination without having first to take
ferry boat and then an electric train to reach the present Oakland
minal. Strangers not familiar with the numerous interurban trains
ch leave the ferry slip immediately after the arrival of the boats
ld find the proposed service of special assistance to them. We are
sfied that there is ample evidence to justify a finding that public
venience and necessity require the operation of applicant's stage
s from Oakland to San Francisco.

We are of the opinion, however, that the certificate in this case
uld be limited to such stages as will be operated to and from the
and county of San Francisco and are destined to or originate at
ced and that no passenger traffic whatsoever should be handled
such stages between San Francisco and Oakland, except passengers
inating at or destined to Livermore or points south thereof.

n view of the fact that there is little or no evidence with reference
he traffic movement to or from Stockton or intermediate points,
are of the opinion that this portion of the application should be
ied.

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We have one other point for consideration in this proceeding. The board of public works of the city and county of San Francisco appeared at the hearing and protested the establishment of a terminal at 672 Market street as proposed by the applicant herein. We are of the opinion that local regulations of automobile stage traffic should not be fixed by decisions of this Commission, but should be left open to regulation by proper police authorities of the particular municipality affected as unquestionably they are far more familiar with local traffic conditions in their respective cities. The order in this proceeding will neither prohibit nor authorize applicant to use the street frontage at 672 Market street as its San Francisco terminal, but will leave this matter entirely to the proper city officials of the city and county of San Francisco.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by California Transit Company of an automobile stage line as a common carrier of passengers and baggage between San Francisco, California, and Merced, California, via Oakland as the route now followed by the same applicant in the operation of its present Oakland-Merced stages and,

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions and limitations:

1. The certificate herein granted shall authorize the operation into San Francisco of stages destined to or originating at Merced only and no passengers or baggage whatsoever shall be transported between San Francisco and Oakland or Oakland and San Francisco upon such stages unless such passengers and baggage are destined to or originate at Livermore or points south thereof.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, within a period of thirty (30) days from date hereof time schedules covering service over the route herein authorized to be served; and shall commence operation of the service herein authorized within a period of not to exceed ninety (90) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

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No vehicle may be operated by applicant herein unless such vehicle wned by said applicant or is leased by it under a contract or ement on a basis satisfactory to the Railroad Commission.

is hereby further ordered, that the above application in all other ects be and the same hereby is denied.

ıe foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State alifornia.

ated at San Francisco, California, this twenty-sixth day of January.

DECISION No. 11567.

SAN JOAQUIN COUNTY FARM BUREAU

vs.

WESTERN PACIFIC RAILROAD COMPANY.

Case No. 1825.

Decided January 26, 1923.

ROAD GRADE CROSSING—INADEQUATE WARNING SIGNALS.—Western Pacific Railroad required to install and maintain automatic flagman at Harte Station crossing on Lower Sacramento road.

Brittain, by *T. C. Nelson,* for Complainant, California Farm Bureau Federation, and for F. S. Williams.
, Rendon and Wallace, by *G. B. Wallace,* for Complainant.
s S. Moore, Jr., for Defendant.
H. Faust, for Lodi Business Men's Association.

HE COMMISSION.

OPINION.

his is a proceeding in which the San Joaquin County Farm Bureau plains of inadequate warning signals for the protection of the public ıe crossing of the Lower Sacramento road over the tracks of Western ific Railroad Company at Harte Station.

public hearing was held upon the above entitled matter by Exam- Westover at Stockton, California.

he evidence shows that the highway is a paved road of the San quin County highway system known as the Lower Sacramento road carries a heavy traffic. The county surveyor testified that the age traffic during the year 1921 over this crossing was 678 vehicles day, and he estimated that this traffic at the present time averages veen 900 and 1000 vehicles per day. He stated that this highway ted fourth in importance with all the highways in San Joaquin nty.

he railroad is approximately three feet above the general elevation he highway in this vicinity, and grades of approach to the crossing

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itself are about four (4) per cent. The crossing is protected by a standard X-shape crossing sign, as well as the advance warning signs prescribed by section 22 of the Motor Vehicle Act. There are no serious obstructions to view, except at that corner of the intersection lying southeasterly of the highway and northwesterly of the railroad, which corner is quite seriously obstructed by an eucalyptus grove, together with the house and barn of an adjacent farm.

The evidence shows that the railroad operates an average of four passenger and six freight trains daily at speeds from 30 to 50 miles per hour. At this location on the highway the automobiles usually run at relatively high speeds of 25 to 30 miles per hour.

It further appears that, in addition to the obstruction to view above noted, the country is subject to fog, it being estimated that there are approximately 30 to 40 foggy days per year.

In view of the conditions above described, considered with the importance of this highway, crossing, as it does, the main line of the railroad at grade, it appears that the hazard at this crossing justifies the installation of an automatic flagman for the protection of the traveling public.

ORDER.

A public hearing having been held on the above entitled matter, the Commission being apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that the public safety requires the installation of an automatic flagman at the crossing of the Lower Sacramento road at grade with the track of the Western Pacific Railroad Company at Harte Station; therefore,

It is hereby ordered, that the Western Pacific Railroad Company be and it is hereby required to install and maintain an automatic flagman at its sole cost for the protection of said crossing, said automatic flagman to be of a type and installed in accordance with plans or data approved by the Commission.

The installation of said automatic flagman shall be made within ninety (90) days of the effective date of this order and the Commission shall be notified, in writing, within thirty (30) days thereafter of the completion and installation of said signal.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this twenty-sixth day of January, 1923.

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DECISION No. 11572.

N THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE TWO MILLION SIX HUNDRED FIVE THOUSAND DOLLARS FACE AMOUNT OF ITS GENERAL AND REFUNDING MORTGAGE SIX PER CENT TWENTY-FIVE-YEAR GOLD BONDS OF THE SERIES OF 1919.

Application No. 7519.

Decided January 26, 1923.

3Y THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 10059, dated February 2, .922, authorized Southern California Edison Company to issue, at not ess than par, $2,605,000 face amount of its general and refunding 6 per cent gold bonds of the Series of 1919 for the purpose of paying ind refunding $2,605,000 face amount of first and refunding mortgage 5 per cent gold bonds issued by The Edison Electric Company and payable September 1, 1922.

In a supplemental petition filed on January 20th in the above entitled matter the company reports that $2,013,000 of the $2,605,000 of bonds were issued in exchange for a like amount of bonds of The Edison Electric Company. The remaining $592,000 of The Edison Electric Company bonds, due September 1, 1922, were paid in cash. Inasmuch as these bonds were paid in cash, applicant did not issue under the authority granted by Decision No. 10059 bonds in the amount of $592,000. It now requests permission to issue these bonds and intends to reduce the interest rate from 6 to 5 per cent per annum, and use the proceeds to pay in part construction expenditures that will be incurred during 1923. The company has submitted in connection with Application No. 8591 a detailed statement of the estimated cost of extensions, additions and betterments which it proposes to construct during the current year.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 10059, dated February 2, 1922, be and it is hereby modified so as to permit Southern California Edison Company to sell, at not less than 90 per cent of their face value and accrued interest, $592,000 of the bonds, the issue of which is authorized by said decision.

The authority herein granted is subject to further conditions as follows:

(1) The interest rate on the bonds shall be reduced from 6 to 5 per cent per annum.

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(2) The proceeds obtained from the sale of the bonds shall be used to pay in part such cost of the extensions, additions and betterments outlined in Application No. 8591 as is properly chargeable to capital account under the system of accounts prescribed or adopted by the Commission.

It is hereby further ordered, that the order in Decision No. 10059, dated February 2, 1922, shall remain in full force and effect except as amended by this order.

Dated at San Francisco, California, this twenty-sixth day of January, 1923.

DECISION No. 11573.

IN THE MATTER OF THE APPLICATION OF KINGS LAKE SHORE RAILROAD COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AN ISSUE OF CAPITAL STOCK AND BONDS.

Application No. 2919.

Decided January 26, 1923.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Kings Lake Shore Railroad Company, in its supplemental petition filed in the above entitled matter on January 12, 1923, asks the Railroad Commission to make an order authorizing it to deliver $51,400 of the common stock and $165,976.63 of the bonds authorized by Decision No. 4461, dated July 16, 1917, as amended, to Charles King in payment of advances made by him and used by applicant in acquiring rights of way and constructing a line of railroad.

In Decision No. 4461, as amended, the Commission authorized applicant to issue $104,000 of stock and $311,000 of first mortgage 6 per cent twenty-year bonds. The orders of the Commission permitted the company to deliver $135,000 of the bonds and $52,500 of the stock to Charles King in part payment of properties, but provided that the remaining $176,000 of bonds and $51,500 of stock might be issued only upon supplemental orders from the Commission to pay, in part, the actual cost of completing the line of railroad. It appears that pursuant to this authority, applicant has issued only $52,500 of stock.

Petitioner reports that it owns tracts of land and rights of way containing approximately 291.6 acres and that it has constructed thereon a standard-gauge main line railroad 17.4 miles in length, extending from Corcoran to a point known as Liberty Station, all in Kings County. It owns one steam locomotive and leases its rolling equipment from The Atchison, Topeka and Santa Fe Railway Company. The company alleges that in acquiring or constructing its properties it expended

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$269,976.63, all of which was advanced by Charles King. Of this amount $52,500 has heretofore been paid by the issue of a like amount of stock at par, leaving a balance of $217,476.63 due him. Applicant now proposes, subject to receiving permission from the Commission, to deliver to Charles King, in full payment, $51,400 of stock and $165,976.63 of bonds.

Inasmuch as the Commission has already conditionally authorized the issue of these securities for this purpose, we do not believe a further hearing is necessary and are of the opinion that the request should be granted as herein provided; therefore,

It is hereby ordered, that Decision No. 4461, dated July 16, 1917, as amended, be and it is hereby further amended so as to permit Kings Lake Shore Railroad Company to issue and deliver to Charles King, in full payment of advances made by him and referred to in this order, $51,400 of its common stock and $165,976.63 of its first mortgage bonds, provided:

(1) That any liens upon applicant's properties be discharged so that the deed of trust securing the payment of the $165,976.63 of bonds will constitute a first lien on such properties; and

(2) That applicant keep such record of the issue and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order; and

(3) That the authority herein granted will become effective on the date hereof and will expire on July 31, 1923.

Dated at San Francisco, California, this twenty-sixth day of January, 1923.

DECISION No. 11574.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided January 29, 1923.

BY THE COMMISSION.

SEVENTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9989, dated January 12, 1922, authorized San Joaquin Light and Power Corporation to issue and sell $5,000,000 of its 7 per cent cumulative prior preferred stock.

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The Commission has from time to time modified the order in Decision No. 9989 so as to permit the company to expend $3,978,804.72 of the proceeds obtained from the sale of the stock. The remainder of the proceeds may be expended only for such purposes as the Commission may authorize in supplemental orders.

Applicant reports in a supplemental petition filed in the above entitled matter that during the month of November, 1922, it expended for plant extensions, additions and betterments the sum of $207,232.34, and that none of such expenditures have been paid or provided for through the issue of stock or bonds.

Applicant requests permission to withdraw the proceeds obtained from the sale of $207,232.34 of stock to finance the expenditures.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds from the sale of $207,232.34 of stock, the issue of which is authorized by Decision No. 9989, dated January 12, 1922, to pay indebtedness incurred for the purpose of paying the construction expenditures reported in the statement filed with the Commission on December 26, 1922, or to reimburse its treasury on account of earnings used to pay such expenditures.

It is hereby further ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, shall remain in full force and effect except as modified by this seventh supplemental order.

Dated at San Francisco, California, this twenty-ninth day of January, 1923.

DECISION No. 11575.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUHORIZING THE APPLICANT TO FILE AND PLACE IN FORCE AND EFFECT THE RULES AND REGULATIONS GOVERNING THE SALE OF ELECTRIC ENERGY REFERRED TO IN THIS APPLICATION.

Application No. 6482.

Decided January 30, 1923.

BY THE COMMISSION.

ORDER.

Pacific Gas and Electric Company has requested the Railroad Commission for authorization to withdraw and cancel the terms and conditions affecting service rendered in that territory formerly served by Sierra and San Francisco Power Company; to withdraw and cancel the rules and regulations applying to service in that territory formerly

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erved by Northern California Power Company except those rules lirectly affecting certain schedules of rates and to place in effect in he entire territory now served the rules and regulations in general as et forth in this Commission's Decision No. 6542 (17 C. R. C. 143), ogether with such modifications as have been made thereto.

The Railroad Commission, on December 30, 1922, in its Decision No. 11457 in Application No. 5567, fixed rates for electric service pplying uniformly over the entire territory served by Pacific Gas and Electric Company including the territory formerly served by Northrn California Power Company and Sierra and San Francisco Power Company, and on the basis upon which these rates were fixed it appears easonable that the rules and regulations authorized in Decision No. 6542, together with such modifications as have been made thereto, are easonable rules and regulations to apply over the entire territory of Pacific Gas and Electric Company and that these rules and regulations hould replace those rules now in effect in the territories of the former Northern California Power Company and former Sierra and San Franisco Power Company.

As the rates applying to the former Northern California Power Company have been canceled by the rates authorized in Decision No. 11457 there exists now no reason for continuing Rules Nos. 30 to 37 of he former Northern California Power Company requested by applicant o be retained. They therefore should be withdrawn. This is a proeeding in which a public hearing is not necessary. It therefore ppears that applicant's request should be granted except for the refilng of the former Northern California Power Company's rules and egulations Nos. 30 to 37.

It is hereby ordered, that Pacific Gas and Electric Company be and he same is hereby authorized to file as the respective rules and regulaions for its entire system rules and regulations now on file set forth nder C. R. C. Sheets Nos. 192-E to 194-E, inclusive, 196-E to 207-E, nclusive, 209-E to 216-E, inclusive, 218-E to 223-E, inclusive, 247-E, 249-E, 251-E and 252-E.

Dated at San Francisco, California, this thirtieth day of January, 1923.

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DECISION NO. 11577.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TO THE NATIONAL CITY COMPANY (A NEW YORK CORPORATION) TEN MILLION DOLLARS FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "C."

Application No. 8625.

Decided February 3, 1923.

C. P. Cutten, for Applicant.

MARTIN, *Commissioner.*

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell, at not less than 95 per cent of their face value plus accrued interest, $10,000,000 of Series "C" 5½ per cent first and refunding mortgage bonds, due December 1, 1952, for the purpose of paying for additional property and the construction of additions and betterments upon its properties and upon those of Mount Shasta Power Corporation, a company controlled by it through stock ownership.

As of November 30, 1922, applicant reports its capital stock outstanding in the hands of the public at $85,368,644, consisting of $50,641,010 of 6 per cent first preferred, $43,600 of original preferred and $34,684,034 of common stock. As of the same date, applicant reports outstanding in the hands of the public bonded indebtedness of $111,818,200. This bonded debt consists of $438,000 of 4 per cent bonds, $6,354,000 of 4½ per cent bonds, $70,471,400 of 5 per cent bonds, $23,834,800 of 6 per cent bonds and $10,720,000 of 7 per cent bonds. In addition, $9,171,800 of bonds are reported as held alive in the various sinking funds, of which $12,000 bear interest at 4 per cent, $175,000 at 4½ per cent, $8,497,600 at 5 per cent and $487,200 at 6 per cent.

It is of record that the company's construction expenditures during 1923 and 1924 will exceed $20,000,000. According to the testimony of A. F. Hockenbeamer, applicant's second vice president and treasurer, substantially all, if not all, of the $20,000,000 will be expended during 1923. To provide itself with funds to pay for part of such construction expenditures, applicant asks permission to issue and sell $10,000,000 of bonds. These bonds will be issued under applicant's first and refunding mortgage, will be dated December 1, 1922, will mature December 1, 1952, will bear interest at the rate of 5½ per cent per annum and will be redeemable at the option of the company, in whole or in part, on any interest payment date upon sixty days' prior notice at par plus a premium of 5 per cent of the principal amount thereof. Applicant has entered into an agreement covering the sale of bonds at

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5 per cent of their face value plus accrued interest. Pending the elivery of definitive bonds, applicant may issue temporary bonds.

Applicant does not at this time ask permission to expend any of the roceeds obtained from the sale of the bonds. It agrees to deposit the ntire proceeds with the trustees under its first and refunding mortage, or with one of them, or with a bank or banks, or with The ational City Company, purchaser of the bonds, and expend the proeds only for such purposes as the Railroad Commission may authorize supplemental order or orders.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad ommission for permission to issue and sell $10,000,000 of bonds, a ublic hearing having been held and the Railroad Commission being the opinion that the money, property or labor to be procured or paid r by such issue is reasonably required by applicant and that this pplication should be granted as herein provided; therefore,

It is hereby ordered, that Pacific Gas and Electric Company be and is hereby authorized to issue and sell, at not less than 95 per cent of eir face value plus accrued interest, $10,000,000 of its Series "C" st and refunding mortgage 5½ per cent bonds due December 1, 1952.

The authority herein granted is subject to further conditions as llows:

1. The proceeds received from the sale of bonds herein authorized all be deposited by applicant with a bank or banks, or with a trust mpany or trust companies, or with The National City Company and ay, when and as authorized by the Commission in subsequent orders, used to acquire and pay for additional property and for the conuction of additions and betterments on the property of applicant d Mount Shasta Power Corporation.

2. Pacific Gas and Electric Company shall keep such report of the ue, sale and delivery of the bonds herein authorized and of the disition of the proceeds as will enable it to file on or before the enty-fifth day of each month a verified report as required by the ilroad Commission's General Order No. 24, which order, in so far applicable, is made a part of this order.

3. The authority herein granted will become effective upon the payent by applicant of the fee prescribed by section 57 of the Public ilities Act, which fee is $5,500, and will expire on July 1, 1923.

The foregoing opinion and order are hereby approved and ordered ed as the opinion and order of the Railroad Commission of the ate of California.

Dated at San Francisco, California, this third day of February, 1923.

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DECISION NO. 11579.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8568.

Decided February 3, 1923.

Chickering and Gregory, by *W. C. Fox*, for Applicant.

SEAVEY and MARTIN, *Commissioners*.

OPINION.

In this application, as amended at the hearing, Western States Gas and Electric Company asks permission to issue and sell $500,000 of its 7 per cent cumulative preferred stock for the purpose of financing in part the cost of extensions, additions and betterments to its plants and properties to be made during 1923, or for such other purposes as the Commission may authorize. The company intends to sell the stock at not less than par but asks that it be permitted to expend not exceeding 6 per cent of the par value of stock sold to pay commissions and selling expenses.

Applicant estimates its net construction expenditures for 1923 at approximately $981,300, as shown in some detail in Exhibit 5 attached to the petition. The $981,300 is segregated by applicant as follows:

Electric properties—		
Production	$6,500 00	
Transmission	257,700 00	
Distribution	394,000 00	
Total electric properties		$658,200 00
Gas properties—		
Production	$104,700 00	
Distribution	122,400 00	
Total gas properties		227,100 00
General		96,000 00
Total estimated expenditures		$981,300 00

It appears that these estimated capital expenditures include $160,000 to rebuild a 60-kilovolt transmission line at Stockton; $100,000 to purchase certain distributing lines from Pacific Gas and Electric Company; $87,000 for line transformers and devices; $177,000 for poles, fixtures and overhead system; $46,000 for electric services and meters; $80,000 for gas generators; $63,000 for gas mains; $54,400 for gas services and meters; $76,000 for buildings and $137,900 for various other purposes.

Applicant agrees to deposit the proceeds from the sale of the stock, less such an amount as it may have to expend in selling the stock, in a special account and withdraw it only when and as authorized by the

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Commission in subsequent orders to pay for extensions, additions and betterments actually installed, or for such other purposes as the Commission may authorize.

The company has an authorized capital stock of $15,000,000 divided into $5,000,000 of common and $10,000,000 of 7 per cent cumulative preferred stock, all shares being of the par value of $100 each. Of these authorized amounts there was reported outstanding on November 30, 1922, $3,148,000 of the preferred and $3,231,500 of the common. On the same date applicant had $13,193,000 of funded debt outstanding in the hands of the public, consisting of $4,326,000 of first mortgage 5 per cent bonds due 1941, $5,000,000 of first and unified mortgage 6 per cent bonds due 1947, $2,668,000 of ten-year 6 per cent notes due 1927, and $1,199,000 of five-year 6½ per cent collateral trust notes due 1923. Since November 30th the company has issued $5,000,000 of 5 per cent notes due 1937 and has redeemed or called for redemption the $2,668,000 of ten-year and the $1,199,000 of five-year notes.

We herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for authority to issue $500,000 of its preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the petition should be granted as herein provided;

It is hereby ordered, that Western States Gas and Electric Company be, and it is hereby authorized to issue and sell for cash at not less than par, $500,000 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

(1) All the proceeds received from the sale of the stock herein authorized, less an amount not exceeding 6 per cent of the par value of stock sold, shall be deposited with a bank or banks or with a trust company or trust companies and expended only when and for such purposes as the Commission may authorize by a supplemental order or orders. An amount equal to not more than 6 per cent of the par value of stock sold may be expended for the payment of commissions, salaries, advertising and other expenses incidental to the sale of the stock.

(2) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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(3) The authority herein granted will become effective upon the date hereof and will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of February, 1923.

DECISION NO. 11580.

IN THE MATTER OF THE APPLICATION OF DIAMOND RIDGE WATER COMPANY, A CORPORATION, TO EXECUTE TO EL DORADO WATER CORPORATION, A CORPORATION, AN OPTION ON ALL OF THE PHYSICAL PROPERTIES OF SAID DIAMOND RIDGE WATER COMPANY TOGETHER WITH THE PRIVILEGE TO SAID EL DORADO WATER CORPORATION OF OPERATING SAID PROPERTIES DURING THE TERM OF SAID OPTION.

Application No. 8599.

Decided February 3, 1923.

J. W. Dorsey and *W. E. Cashman*, by *W. E. Cashman*, for Diamond Ridge Water Company.

Greene and Sinclair, by *B. D. Marx Greene*, for El Dorado Water Corporation.

WHITTLESEY, *Commissioner*.

OPINION.

Applicants in this proceeding ask the Railroad Commission to make an order authorizing Diamond Ridge Water Company and El Dorado Water Corporation to execute an option agreement substantially in the same form as that filed in this proceeding and marked "Exhibit B"; authorizing Diamond Ridge Water Company to transfer the possession of its properties to El Dorado Water Corporation, and to permit El Dorado Water Corporation to deposit $6,000 of bonds to secure the payment of a $4,000 note payable on or before July 1, 1923, and pay $1,000 to Diamond Ridge Water Company upon the date of the execution of the option agreement.

It is of record that the Diamond Ridge Water Company system lies adjacent to the system of the El Dorado Water Corporation; that for many years the sole source of water supply of the Diamond Ridge Water Company has been the ordinary flow of the north fork of the Cosumnes River; that in the middle of the summer and fall months, there is insufficient flow of water to supply the needs of irrigation and domestic use on the system of the Diamond Ridge Water Company; that Diamond Ridge Water Company has been financially unable to augment its water supply to adequately care for the needs of its present consumers or allow new consumers to be connected with the system; that El Dorado Water Corporation upon the completion of its

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roposed Webber Creek reservoir will have water available for use pon the Diamond Ridge Water Company system and will adequately e able to care for the consumers thereof; that the two properties nified under one management will be able to effect economies both ı the use and cost of distribution of water and that the El Dorado Vater Corporation when the owner of the distribution system of the iamond Ridge Water Company will be in a position to more adeıately serve with water all that portion of El Dorado County covered y the system of applicants.

Under the agreement which applicants ask permission to execute, the l Dorado Water Corporation is given an option running for a period f two years to purchase the water system of the Diamond Ridge Vater Company for the sum of $50,000. Under this agreement, the l Dorado Water Corporation is obligated to pay $1,000 upon the date f the execution of the agreement and $4,000 on or before July 1, 1923. hese payments extend the option granted to the El Dorado Water orporation to December 31, 1923. Upon the payment of an additional 5,000, the option is extended to December 31, 1924. If during the vo-year interval, the El Dorado Water Corporation exercises its ption, any amount then paid will be credited on the purchase price. he $4,000 payment due July 1, 1923, will be secured by the deposit f $6,000 of the El Dorado Water Corporation first mortgage sinking und gold bonds Series A, issue of 1922.

The El Dorado Water Corporation will upon the execution of the ption agreement take complete possession of the properties of the iamond Ridge Water Company and operate such properties. It will eceive all income and pay all operating expenses and agrees to mainıin the properties in good state of repair during the time that it has ossession thereof. The option agreement referring to the operation nd maintenance of the properties provides as follows:

> And, at its sole cost, charge and expense, the optionee (El Dorado Water Corporaon) covenants and agrees to take charge and possession and to operate the properties ıd business of the optionor (Diamond Ridge Water Company) as a ditch and istributing system for agricultural, domestic and manufacturing purposes and to ıy all charges and expenses in relation thereto, and at its cost and expense to main- in and keep the physical properties of said system in good condition and repair, all which acts optionee agrees to perform in a good and businesslike manner and ccording to the rules, regulations and orders of the Railroad Commission of the tate of California.

Under the provisions of the option agreement, the El Dorado Water orporation is obligated to operate the water system as may be directed rom time to time by the Railroad Commission. By the granting of his application, the Commission in no way limits its jurisdiction to rder the proper parties to make such extensions or improvements to

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the system of the Diamond Ridge Water Company as conditions may hereafter demand.

The El Dorado Water Corporation asks permission to pay to the Diamond Ridge Water Company the sum of $1,000 upon the date of the execution of the option agreement and to execute and deliver to the Diamond Ridge Water Company its promissory note for $4,000, payable on or before July 1, 1923. The payment of the note is to be secured by the deposit of bonds. The authority to deposit such bonds is granted in a supplemental order in Application No. 7646. The company may, without permission from the Commission, make the $1,000 payment and execute the $4,000 note payable on or before July 1, 1923. It is therefore not necessary for the Commission in the order herein to specifically authorize the payment of the $1,000 or the execution of the $4,000 note.

I herewith submit the following form of order:

ORDER.

Diamond Ridge Water Company and El Dorado Water Corporation having asked the Railroad Commission for permission to execute an option agreement substantially in the same form as the agreement filed in this proceeding and marked "Exhibit B" and to perform such acts as are contemplated by said option agreement, a public hearing having been held and the Commission being of the opinion that the execution of the option agreement is in the interest of the public and that this application should be granted as herein provided;

It is hereby ordered, that Diamond Ridge Water Company and El Dorado Water Corporation be and they are hereby authorized to execute an option agreement substantially in the same form as the agreement filed in this proceeding and marked "Exhibit B."

It is hereby further ordered, that Diamond Ridge Water Company be and it is hereby authorized to transfer to El Dorado Water Corporation possession of the properties described in the option agreement filed in this proceeding and marked "Exhibit B."

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted to execute an option agreement shall not be interpreted as limiting the Commission's jurisdiction in any way whatsoever over the rates or service of the Diamond Ridge Water Company, or its successors, or assigns.

(2) The authority herein granted does not fix the value of the properties covered by the option agreement for the purpose of establishing rates or for any other purpose other than the transfer contemplated by such option agreement.

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3) The authority herein granted will apply only to such option
ement as may be executed on or before April 1, 1923.

he foregoing opinion and order are hereby approved and ordered
as the opinion and order of the Railroad Commission of the
e of California.

ated at San Francisco, California, this third day of February, 1923.

DECISION No. 11589.

'HE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUE OF BONDS.

Application No. 7646.

Decided February 3, 1923.

'HE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

he Railroad Commission by Decision No. 10460, dated May 16, 1922, norized El Dorado Water Corporation to issue $200,000 face value irst mortgage sinking fund gold bonds of Series A for the purpose paying the cost of constructing its proposed Webber Creek dam and rvoir, retire outstanding bonds of the El Dorado Water Company provide itself with working capital.

pplicant proposes to enter into an agreement giving it an option purchase the properties and distributing system of the Diamond ge Water Company. Under this agreement, it is required to pay 00 on the date of the execution of the agreement and $4,000 repreted by a promissory note, on or before July 1, 1923. The payment the note is to be secured by the deposit of $6,000 of first mortgage king fund gold bonds of Series A.

'he Commission is of the opinion that the order in Decision No. 60, dated May 16, 1922, should be modified so as to permit the pany to use $6,000 of the bonds authorized by Decision No. 10460, ed May 16, 1922, for the purpose indicated; therefore,

t is hereby ordered, that the order in Decision No. 10460, dated y 16, 1922, be and it is hereby modified so as to permit El Dorado ter Corporation to deposit $6,000 of the bonds authorized by said er to secure the payment of the $4,000 note which it will issue suant to the terms of the option agreement filed in Application 8599.

t is hereby further ordered, that the order in Decision No. 10460, ed May 16, 1922, as amended, shall remain in full force and effect ept as modified by this second supplemental order.

Dated at San Francisco, California, this third day of February, 1923.

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DECISION No. 11591.

IN THE MATTER OF THE APPLICATION OF MOUNT TAMALPAIS AND MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO ISSUE RENEWAL NOTE.

Application No. 8628.

Decided February 6, 1923.

R. H. Ingram, for Applicant.

BY THE COMMISSION.

ORDER.

Mount Tamalpais and Muir Woods Railway having asked permission to issue a $10,000 6 per cent note payable on or before one year after date for the purpose of renewing a note for $10,000 issued on February 2, 1922; a public hearing having been held before Examiner Gordon, and it appearing from the testimony that the $10,000 obtained through the issue of the note on February 2, 1922, was used to pay for three new passenger coaches; and the Commission being of the opinion that this application should be granted as herein provided; therefore,

It is hereby ordered, that Mount Tamalpais and Muir Woods Railway be and it is hereby authorized to issue a $10,000 6 per cent note payable on or before one year after date for the purpose of paying or refunding the $10,000 note referred to in this application.

The authority herein granted is subject to further conditions as follows:

(1) Applicant may, if it desires, issue a note for a term of less than one year. If it issues a note for a term of less than one year, it may renew the note from time to time provided that the term of the note originally issued and the term of the renewal note or notes issued shall not exceed one year from the date hereof.

(2) Mount Tamalpais and Muir Woods Railway shall keep such record of the issue of the note herein authorized as will enable it to file a verified statement as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable is made a part of this order.

(3) The authority herein granted will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is $25, and will expire on December 31, 1923.

Dated at San Francisco, California, this sixth day of February, 1923.

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DECISION No. 11598.

THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF THE SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided February 6, 1923.

THE COMMISSION.

EIGHTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9989 dated January 12, 2, authorized San Joaquin Light and Power Corporation to issue l sell 50,000 shares of its 7 per cent cumulative prior preferred :k of the aggregate par value of $5,000,000. The order of the nmission as amended from time to time permits the company to end the proceeds obtained from the sale of $4,186,037.06 of the :k to pay current indebtedness incurred in the acquisition of mate- s and supplies and to finance in part construction expenditures le prior to November 30, 1922, but provides that the remainder :he proceeds may be expended only for such purposes as the Com- sion may authorize in supplemental orders.

The company reports in a supplemental petition filed in the above itled matter on January 27, 1923, that during the month of Decem- 1922, it expended for plant extensions, additions and betterments sum of $143,784.47 and that none of such expenditures have been l or provided for through the issue of stock or bonds.

t further reports that it has outstanding $400,000 of its 7 per cent fying and refunding bonds which become due and payable on rch 1, 1923.

t therefore asks the Commission for permission to withdraw the ceeds from the sale of $143,784.47 of the stock authorized by ision No. 9989 to finance in part its December construction expendi- s and to withdraw the proceeds from the sale of $400,000 of such k for the purpose of paying these unifying and refunding mort- e bonds.

The Commission has considered applicant's request and believes ; it should be granted as herein provided; therefore,

t is hereby ordered, that San Joaquin Light and Power Corporation nd it is hereby authorized to withdraw the proceeds from the sale $543,784.47 par value of the preferred stock, the issue and sale of ch is authorized by the order in Decision No. 9989 dated January 1922, and to use the proceeds obtained from $143,784.47 of such

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stock to pay indebtedness incurred for the purpose of financing construction expenditures during December, 1922, or to reimburse its treasury on account of earnings used to finance temporarily such expenditures, and the proceeds from the sale of $400,000 of such stock to pay in part the cost of redeeming at maturity the $400,000 of unifying and refunding mortgage bonds due on March 1, 1923.

It is hereby further ordered, that the order in Decision No. 9989 dated January 12, 1922, as amended, shall remain in full force and effect except as modified by this eighth supplemental order.

Dated at San Francisco, California, this sixth day of February, 1923.

DECISION No. 11604.

IN THE MATTER OF THE APPLICATION OF MRS. MARY KERN FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER ALL HER RIGHT, TITLE AND INTEREST IN AUTO TRUCK LINE OPERATED BETWEEN LOS ANGELES AND LONG BEACH AND INTERMEDIATE POINTS, INCLUDING CERTAIN EQUIPMENT, TO G. R. CLEAVELAND, AND APPLICATION OF G. R. CLEAVELAND FOR AN ORDER GRANTING PERMISSION TO PURCHASE SAID LINE AND EQUIPMENT AND TO OPERATE SAME THEREAFTER.

Application No. 8517.

IN THE MATTER OF THE APPLICATION OF THE RICE TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER ALL ITS RIGHT, TITLE AND INTEREST IN AUTO TRUCK LINE OPERATING BETWEEN LOS ANGELES AND LONG BEACH AND INTERMEDIATE POINTS, INCLUDING CERTAIN EQUIPMENT, TO MRS. MARY KERN, AND APPLICATION OF MRS. MARY KERN FOR AN ORDER GRANTING PERMISSION TO PURCHASE SAID AUTO TRUCK LINE, AND EQUIPMENT, AND TO OPERATE SAME THEREAFTER.

Application No. 8518.

Decided February 6, 1923.

Mrs. Mary Kern, in propria persona.
R. B. Cleaveland, for Rice Transportation Company.

BY THE COMMISSION.

OPINION.

By the above applications authority is sought for transferring from Rice Transportation Company to Mary Kern and from her to G. R. Cleaveland, equipment and operative rights relating to the truck line serving Los Angeles, Long Beach and intermediate points.

A public hearing upon the applications was held by Examiner Westover at Los Angeles.

It appears from the testimony that Mrs. Kern, who is vice president of the company, wishes to retire and dispose of her 4301 shares of its capital stock of the par value of $1 each; also, that G. R. Cleaveland and his sons, who own the remaining 12,668 shares, wish to divide the equipment and operative rights belonging to the company and operate

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n separately. The reason assigned is that their experience of about
e years in operating the equipment of the corporation shows that
er service can be given the patrons of a freight line by operating
rom the point of distribution of shipments rather than from their
ıt of origin. Mr. Cleaveland wishes to live in Long Beach and
rate the Los Angeles-Long Beach line from there, where he can be
loser touch with shippers ordering goods; and his sons wish to live
Venice and operate the Los Angeles-Venice line from there, for
ilar reasons.

; appears, however, from the Commission's records, that the entire
ice was established by E. G. Rice prior to May 1, 1917, that he was
rating it in good faith prior to that date, as one line, and that he
sequently transferred it as one line by authority of Decision No.
5 of September 23, 1920, on Application No. 6120 to G. R. Cleave-
l, who continued to operate it as one line under its original fictitious
ıe of Rice Auto Delivery until after the incorporation of Rice
nsportation Company in April, 1921, to which corporation the line
transferred by authority of Decision No. 9188 of June 30, 1921,
n Application No. 6759.

he line having been acquired, held and operated as a single indi-
ble line, and there being no showing here that public convenience
necessity require the operation of a separate line by G. R. Cleave-
l between Los Angeles and Long Beach, we can not properly
ıorize such a transfer as that prayed for.

lowever, no reason appears why the parties may not, as stock-
lers, transfer stock in the corporation; nor why the corporation
not, as a matter of internal organization and management, operate
trucks from Long Beach and Venice, respectively, to and from
Angeles.

ORDER.

public hearing having been held on the above entitled matters
being now ready for decision;

is hereby ordered, that the applications be and the same are
by denied.

ated at San Francisco, California, this sixth day of February, 1923.

DECISION No. 11606.

THE MATTER OF THE APPLICATION OF MOTOR COACH COMPANY, A CORPORATION, TO ISSUE AND SELL CERTAIN SHARES OF ITS CAPITAL STOCK.

Application No. 8529.
Decided February 6, 1923.

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and Hardy, by *H. W. Kidd*, for Applicant.

THE COMMISSION.

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OPINION.

In this application, as amended at the hearing, Motor Coach Company asks the Railroad Commission to make an order authorizing it to issue 53,492 shares of its capital stock of the aggregate par value of $53,492 for the purposes and consideration hereinafter mentioned.

A public hearing was held before Examiner Williams in Los Angeles.

Motor Coach Company's articles of incorporation show that it was organized on or about September 30, 1922, with an authorized capital stock of $100,000, divided into 100,000 shares of the par value of $1 each, all shares being common. It appears that the corporation was formed for the purpose of acquiring and operating the properties and business of V. C. Gorst and H. N. Richards, copartners who, under the firm name and style of Redondo-San Pedro Stage Line, have been operating auto stages for the transportation of passengers between Redondo and San Pedro. It is reported that V. C. Gorst and H. N. Richards acquired this business on September 1, 1922, and that their revenues and expenses for the four months ending December 31, 1922, were as follows:

Receipts.		
Passenger revenue	$14,421 66	
Other revenue	1,284 32	
Total revenues		$15,705 98
Disbursements.		
Operating expense	$6,648 89	
Maintenance expense	3,140 33	
Traffic expense	58 59	
General expense	3,023 43	
Depreciation	1,179 70	
Total disbursements		14,050 94
Net operating profit		$1,655 04

By Decision No. 10921, dated August 30, 1922, the Commission authorized V. C. Gorst and H. N. Richards to enter into an agreement with J. A. Smith, then owner of the Redondo-San Pedro Stage Line, by the terms of which J. A. Smith agreed to lease his operative rights to V. C. Gorst and H. N. Richards for a period of eighteen months from August 26, 1922, for the nominal rental of one dollar. J. A. Smith also agreed to sell and convey all of his automobile stages, busses, tools, equipment, office supplies and other tangible and intangible properties for $25,000, of which $10,000 was to be paid in cash, and $15,000 was to be paid in installments over a period of eighteen months, with interest at the rate of 8 per cent per annum on deferred payments. This application shows that $12,000 of the agreed purchase price is unpaid. On December 28, 1922, by Decision No. 11404, V. C. Gorst and H. N. Richards were authorized to assign and transfer their interest

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in the lease of August 26, 1922, to Motor Coach Company, applicant herein.

Motor Coach Company now proposes to acquire the properties of the copartners and to issue $53,492 of its capital stock. It asks permission to deliver five shares at par to its directors for qualifying purposes and to sell the remaining 53,487 shares at 90 per cent of par value for the following purposes:

To Gorst and Richards for properties	$26,099 00
To pay balance due J. A. Smith	12,000 00
To pay interest that will accrue on indebtedness	700 00
For working capital	6,940 00
To pay promotion expenses	2,400 00
Total	$48,139 00

The record shows that the properties purchased from J. A. Smith for $25,000 included a 19-passenger Moreland truck, an 18-passenger White and three Ruggles of 15, 17 and 18-passenger capacity, and an item of $6,500 as shown below, for goodwill. These stages are now to be transferred to applicant and, in addition, two White trucks with special bodies of 17 and 19-passenger capacity, which were alleged to have been purchased during 1921 by Gorst and Richards at an approximate cost of $15,000. The bill of sale and assignment between J. A. Smith and V. C. Gorst and H. N. Richards, dated August 26, 1922, recites that the parties were agreed that the present reasonable market value of the properties covered by the agreement was in excess of $25,000, the estimated valuation aggregating $25,051. In the present petition applicant estimates the total reasonable present value of all the properties to be transferred, including the two additional White trucks, as $38,099. The relation between the price paid to J. A. Smith and the price now asked of Motor Coach Company is shown in the following tabulation:

	Price paid to J. A. Smith	Additions by Gorst and Richards	Prices asked applicant
Car No. 1—Moreland	$2,000 00	$128 00	$2,128 00
Car No. 2—White	4,000 00	125 00	6,125 00
Car No. 3—Ruggles	3,000 00	82 00	2,432 00
Car No. 4—Ruggles	3,500 00	56 50	3,654 50
Car No. 5—Ruggles	3,500 00	21 25	3,021 25
Car No. 6—White			6,800 00
Car No. 7—White			6,066 40
Shop equipment, etc.	2,000 00	788 23	2,788 23
Office furniture	50 00	113 10	163 10
Lease on shop	500 00		800 00
Goodwill	6,500 00		3,000 00
Operating right	1 00		1 00
Prepaid expense			919 92
Interest paid			200 00
Totals	$25,051 00	$1,314 08	$38,099 40

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Testimony herein shows that the price now asked Motor Coach Company for the seven automobiles was determined by deducting from the estimated original cost, an amount representing depreciation accrued since the date of purchase, and that in arriving at such price the amount paid to J. A. Smith received no consideration. It appears to us that for the purpose of this proceeding more weight should be given to the price paid by Gorst and Richards for the automobile equipment, than to the price at which they have offered such equipment to the Motor Coach Company, organized by them. The Commission does not look with favor upon the practice of an individual buying properties at a certain price and then proceeding to organize a corporation and sell the properties to such corporation at an increased price. In our opinion, the automobile equipment and other physical properties referred to in this application should be transferred to Motor Coach Company at $32,231.48. To realize this sum through the sale of stock at 90 requires a total issue of $35,812 par value. Of this amount $22,479 may be delivered to V. C. Gorst and H. N. Richards for their equity in the property, and $13,333 may be sold to pay the $12,000 indebtedness now outstanding against such properties.

Included among the properties to be acquired by Motor Coach Company is an item of $3,000 representing goodwill or going concern value. Applicant reports that Gorst and Richards had agreed to pay J. A. Smith $6,500 for his business goodwill and it alleges such goodwill is worth at least $3,000. In support of its allegation it produced testimony to show that this line has been operated for more than seven years, that the operations during earlier years were conducted at a loss, that the line at present is the only bus line covering this territory, and is the only direct transportation line connecting all points served. In our opinion applicant has not justified the issue of stock against an allowance of $3,000 for goodwill or going concern value. We think there should also be eliminated a further amount of $1,919.92, representing $800 for a lease value, $919.92 for prepaid insurance and taxes and $200 for interest which has already been paid by Gorst and Richards on the indebtedness to J. A. Smith. These expenditures should be paid or provided for out of the revenues of the business and are not proper items against which stock should be issued. For the same reason, the request of applicant to use proceeds from the sale of its stock to pay interest of $700 which it estimates will accrue before the indebtedness of $12,000 is finally paid, should be dismissed.

The company asks permission to provide working capital of $6,940 through the sale of stock, this amount being approximately equal to two months' operating expenses. H. N. Richards, the president of Motor Coach Company, testified that the business is conducted entirely

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on a cash basis, and that the current revenues are sufficient to take care of operating expenses. The record shows that the $6,940, if allowed by the Commission, will not be used in the way that working capital is generally used but will be held as a reserve, in case of contingencies or accidents, to provide additional equipment. However, the company reports that it proposes to purchase two cars during 1923 to properly take care of its business. While we are not inclined to authorize the use of $6,940 of stock proceeds for working capital, we believe that applicant at this time should be authorized to issue and sell such an amount of stock at 90 as will yield $6,940, and to use the proceeds, upon receiving supplemental orders from the Commission, to pay for additional equipment.

Petitioner further asks permission to use $2,400 to pay organization expenses, which it reports include $1,000 for legal expenses, $300 for accounting expenses and installing records, and $1,100 representing 5 per cent brokerage in the sale of approximately 22,000 shares of stock. It appears that it is the intention of the company to offer a portion of the stock to the public at 90 per cent of par value, but it is estimated that an amount equal to at least 5 per cent of the par value of such stock must be expended in connection with such sale. Inasmuch as the testimony indicates that applicant's incorporators or their associates will subscribe for this stock, it does not appear to us necessary to authorize the use of this amount of money for selling expenses.

The order herein will authorize the issue of $44,972 par value of stock for the purposes mentioned in said order.

ORDER.

Motor Coach Company having applied to the Railroad Commission for permission to issue $53,492 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of $44,972 of stock is reasonably required by applicant;

It is hereby ordered, that Motor Coach Company be and it is hereby authorized to issue 44,972 shares of its common capital stock of the aggregate par value of $44,972 and to assume the payment of the outstanding indebtedness of $12,000 referred to in this decision.

It is hereby further ordered, that the application in so far as it relates to the issue of 8520 shares of stock be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

(1) Five shares of the stock herein authorized may be sold to applicant's directors at par for cash and the proceeds used for working capital.

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(2) The remaining shares herein authorized may be sold at not less than 90 per cent of their par value and the proceeds used for the following purposes:

(*a*) To pay in part for the properties of V. C. Gorst and H. N. Richards	$20,231 48
(*b*) To pay the $12,000 indebtedness applicant is herein authorized to assume	12,000 00
(*c*) To pay organization expenses	1,300 00

The remaining proceeds may be expended only when authorized by the Commission, in supplemental orders, to pay for additional equipment.

(3) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, and will expire on December 20, 1923.

Dated at San Francisco, California, this sixth day of February, 1923.

Decision No. 11608.

IN THE MATTER OF THE APPLICATION OF IMPERIAL UTILITIES CORPORATION, A PUBLIC UTILITY CORPORATION, AND MIDWICK CLUB CORPORATION, A CORPORATION, FOR AN ORDER VACATING THE ORDER HERETOFORE MADE PERMITTING THE SALE OF CERTAIN REAL PROPERTY TO MIDWICK COUNTRY CLUB AND FOR AUTHORITY TO SELL SAID PROPERTY IN ACCORDANCE WITH THIS APPLICATION.

Application No. 8493.

Decided February 6, 1923.

Chapman and Chapman, by *L. M. Chapman*, for Applicant.
Thomas A. Berkebile, for City of Monterey Park.

BY THE COMMISSION.

OPINION.

In the above entitled application the Imperial Utilities Corporation asks authority to transfer certain utility property to the Midwick Club Corporation and the vacating of the Commission's former order (Decision No. 10765, Application No. 8017, In the matter of the joint application of H. N. Siegfried, as receiver of Imperial Utilities Corporation, to sell, and Midwick Country Club to purchase certain real property).

A public hearing was held before Examiner Williams at Los Angeles, at which all interested parties were given an opportunity to appear and be heard.

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The testimony indicates that the title to all real property now owned for the benefit of the Midwick Country Club, an unincorporated club, is held by the corporation known as the "Midwick Club Corporation." It also appears that the receivership proceedings pertaining to the Imperial Utilities Corporation have been terminated, and the management of the company's affairs returned to the corporation.

It appears from the testimony that the property to be conveyed, and the contracting parties hereto, are the same as those recited in the former proceedings above named. The conditions are the same as existed at that time, with the exception that additional testimony shows that the city of Monterey Park is engaged in negotiations with the Imperial Utilities Corporation whereby it is to purchase the company's system located within the city limits. This would not include the property in question herein.

ORDER.

A public hearing having been held on the above entitled application, the matter being submitted, and now ready for decision;

It is hereby ordered, that the order of this Commission made under date of July 22, 1922, Decision No. 10765, Application No. 8017, be and the same is hereby vacated and set aside.

It is hereby further ordered, that the Imperial Utilities Corporation be and it is hereby authorized to transfer to Midwick Club Corporation, a corporation, its property in Los Angeles County, California, described as follows:

Lot three hundred thirty-four (334) Ramona Acres, and the west thirty (30) feet of vacated street on the east side, also vacated alley on the south, plat No. 2, sheet No. 3, in the county of Los Angeles, State of California, as per map recorded in book seventeen (17), pages twenty-six (26) and twenty-seven (27) of maps in the office of the county recorder of said county. Together with all rights of way and easements appurtenant thereto.

Subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as may be made within sixty (60) days after the date hereof.

2. Within sixty (60) days after the date hereof, applicant Imperial Utilities Corporation shall file with the Railroad Commission a verified copy of the deed under which it has transferred the title to the property described in this order to the Midwick Club Corporation, and shall also notify the Railroad Commission of the date on which it has given possession and control of the property to the Midwick Club Corporation.

3. The consideration upon which this transfer is based shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

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4. Nothing herein contained is to be construed as relieving the Imperial Utilities Corporation of any prerogatives or obligations as a public utility.

Dated at San Francisco, California, this sixth day of February, 1923.

DECISION NO. 11610.

IN THE MATTER OF THE APPLICATION OF JAMES BALLANTYNE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MILK AUTOMOBILE TRUCK SERVICE BETWEEN POINTS IN THE CITY OF SAN DIEGO AND POINTS IN THE VICINITY OF FOSTER, EL MONTE, LAKESIDE AND SANTEE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

Application No. 7945.

Decided February 6, 1923.

AUTOMOBILE TRUCK SERVICE—HANDLING MILK.—Where there is need of the service it should be available to the public. Application for certificate to serve a limited number of shippers denied.

P. S. Thacher, for Applicant.

F. P. Dorsey, for Protestant, San Diego and Arizona Railway.

W. E. Libby, for Protestant, Bisher Truck Line.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Eddy at San Diego upon the above entitled application to establish an automobile truck service for the handling of milk from points in the so-called Lakeside District of San Diego County to the city of San Diego.

The applicant has entered into a contract with the Milk Producers Association of San Diego County, hereinafter referred to as the association, to handle milk from the territory of origin above named to points in the city of San Diego, a service now being performed by the association itself, but which it prefers to have performed under contract. Some twenty-three or twenty-four members of the association, having a daily output of between six and seven tons of milk, reside in the Lakeside district and desire to ship their product to San Diego. Milk is a highly perishable commodity and must be handled promptly and carefully so as to arrive at destination in the best possible condition. Experience has demonstrated that this can be accomplished only if the association itself is able to dictate the conditions under which the milk is handled and the time of arrival in San Diego. The applicant proposes to pick up the milk twice daily and return the empty cans to the shippers. For this service he is to receive from the association 23 cents per ten-gallon can from Lakeside and beyond, and 20 cents from stations below Lakeside, the schedule to be fixed by the association and the contract to be terminated if the service performed

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is not satisfactory. All shippers served will be members of the association and milk will be the only commodity handled. A three and one-half-ton Moreland truck will be used, which the record indicates is ample to take care of the traffic involved.

At the hearing, granting of the application was protested by A. C. Bisher, who operates a truck line between Ramona and San Diego and serves all the points of origin here named except El Monte. The latter point is located five or six miles off the highway from Lakeside, and is not included in Mr. Bisher's certificate. At the present time, Mr. Bisher is handling, in conjunction with the other traffic, milk from Ramona to San Diego. He desires to participate also in the service performed by the applicant and is willing to abide by the time schedule of the association and to furnish the additional equipment necessary to handle its milk. In order to comply with the terms of the contract, he would be obliged, however, to operate a service separate and distinct from that now being performed by him under his present certificate.

A protest was also filed on behalf of the San Diego and Arizona Railway Company, which serves Lakeside. At one time that company operated a truck which brought the milk from the surrounding country into Lakeside, but the service was unsatisfactory because the railroad schedule did not meet the convenience of the association, and the milk, upon arrival at San Diego, had to be handled by truck from the railway depot to the several distributing stations in that city.

A copy of the contract between the applicant and the Milk Producers' Association of San Diego County is attached to the application. It sets forth that the applicant has "written requests from the shippers in the Lakeside-Santee-Foster districts, asking that he transport for them their milk" and hereby contracts "for the hauling of the milk produced by such Lakeside, Santee and Foster shippers as have signed said requests." In other words, the application, contract and record all clearly show that the applicant does not desire to operate as a common carrier, but to handle milk only for a limited number of individuals, members of the Milk Producers' Association, and under conditions and upon schedules fixed by that association. Furthermore, the contract provides that it may be terminated if the milk is not handled in accordance with the terms thereof and the association may then "procure other transportation." Apparently there is need for someone to handle milk between the points of origin named in the application and San Diego. This being true, an application should not be granted which would confine the enjoyment of this service to any individual or group of individuals. If the service is a public necessity the public, or that portion thereof which desires to avail itself of the service, should be permitted to do so whether members of the Milk Producers' Association or not.

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The application will be denied without prejudice to the right of the applicant to file a new application to establish an automobile freight line as a common carrier of milk and cream only, between the points named and the city of San Diego.

ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of February, 1923.

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MISCELLANEOUS AND SUPPLEMENTAL ORDERS

AUTO STAGE APPLICATIONS

DISMISSALS

GRADE CROSSINGS

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TABLE A. MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

Dec. No.	Application No.	Applicant	Nature of proceeding	Date
10694	7707	Turner, Lillie	Amending Decision No. 10673	July 11, 1922
10721	7597	Southern Pacific Company	Rescinding Decision No. 10169	July 15, 1922
10743	6671	River Express Co. and Overland Transfer Co.	Suspending Decision No. 8829	July 20, 1922
10758	7801	Bern. Heliot	Petition of Southern Pacific Co. for modification of order—dismissed	July 21, 1922
10765	8017	H. N. Siegfried, Receiver (Imperial Utilities Corp. and Midway Country Club)	Former authorized to transfer certain real property to latter	July 22, 1922
10767	7541	A. M. Cooper	Decision No. 10526 annulled and revoked	July 25, 1922
10774	7456	Graham Transportation Company	Decision No. 10126 annulled and revoked	July 25, 1922
10780	7069	Wellits Water and Power Company (rehearing)	Petition for rehearing denied	July 25, 1922
10792	8032	Southern California Edison Company	Modification of order in Decision No. 10748	July 28, 1922
10793	6637	Sonoma Valley Water Light and Power Company et al. and Sonoma Water and Irrigation Company	Modification of order in Decision No. 9683	July 28, 1922
10824	7710	F. S. Frye et al.	Amending Decision No. 10824	Aug. 3, 1922
10844	6772	Jarvis Lord et al.	Decision No. 9045 revoked and annulled	Aug. 10, 1922
10845	6147	Thomas Jensen	Decision No. 1879 revoked and annulled	Aug. 10, 1922
10846	6379	Board of Supervisors, San Bernardino County	Rescinding Decision No 8.155	Aug. 10, 1922
10871	7991	John Hayes	Applicant granted certificate water service, Los Angeles County	Aug. 17, 1922
10893	8146	Consolidated Utilities Company	Authorizing installation charges	Aug. 23, 1922
10897	8152	East Gardena Water Co. and Colby Investment Co.	Former to sell to the latter certain nonoperative property	Aug. 23, 1922
10903	8183	Orange Home Water Company	Authorizing abandonment of service	Aug. 23, 1922
10919	7880	Atchison, Topeka and Santa Fe Railway Company	Amending Decision No. 10703 as to construction of spur track	Aug. 26, 1922
10924	7964	Rollins Cochran	Decision No. 10754 annulled and revoked	Aug. 31, 1922
10925	7966	Santa Barbara Tel. Co. and Pacific Tel. and Tel. Co.	Amending Decision No. 10302 to transfer certain toll property	Aug. 31, 1922
10943	4430	Redding-Weaverville Stage Company	Decision No. 7208 annulled and revoked	Sept. 2, 1922
10944	7592	Elmer E. Bush and H. A. Webb	Decision No. 10164 revoked and annulled	Sept. 2, 1922
10945	8005	C. J. Rupley and C. W. Ganow	Decision No. 10838 revoked and annulled	Sept. 2, 1922
10946	6158	L. E. Mallery	Decision No. 8557 revoked and annulled	Sept. 2, 1922
10972	3667	Stanley C. Harrell	Supplemental order revoking decision	Sept. 2, 1922
10973	3667	Stanley C. Harrell	Decision No. 5324 revoked and annulled	Sept. 7, 1922
10984	8226	Dalidio, Logini and Ghezzi	Granting authority to file rules, etc., and authorizing same to become effective	Sept. 7, 1922
10993	3421	Pickwick Stages, N. D.	Amending Decision No. 10815	Sept. 14, 1922
10998	C. 1612	J. S. Holmes vs. C. C. White Water Company	Amending Decision No. 7926	Sept. 16, 1922
11001	8247	Mrs. Mary A. Latour and Mrs. Frank Hendricks	Former authorized to transfer telephone exchange to latter	Sept. 18, 1922
11005	7985	Harry S. Payne et al., "Pacific Motor Express"	Decision No. 10818 revoked and annulled	Sept. 19, 1922
11006	3723	Southern Pacific Company	Amending Decision No. 5387 as to construction of grade crossing	Sept. 19, 1922
				Sept. 20, 1922

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11008	5880	H. H. Davis	Decision No. 8176 revoked and annulled	Sept. 20, 1922
11012	3934	San Diego-Campo United States Mail Stage	Decision No. 5694 revoked and annulled	Sept. 21, 1922
11017	7355	Thomas Richards and Richards Trucking and Warehousing Company	Authorizing expenditure of stock proceeds	Sept. 26, 1922
	7346	Richards Trucking and Warehousing Company		
11029	6630	Pacific Electric Railway Company	Applicant granted permission to discontinue certain service	Sept. 26, 1922
11030	8223	Southern California Gas Company	Applicant granted authority to file and put into effect schedule of industrial rates	Sept. 26, 1922
11040	7984	W. Sidro Medina	Applicant granted certificate to operate water plant, Lynwood Park Tract, Los Angeles County	Sept. 29, 1922
11042	8032	Southern California Edison Company	Amending Decision No. 1078 as to stock issue	Sept. 29, 1922
	7840	Southern California Edison Company	Amending Decision No. 10757 as to stock issue	Sept. 29, 1922
11051	C. 1814	Re G. Lawrence Ritchie	Order to show cause (dismissed)	Oct. 4, 1922
11055	8195	Wm. Peck et al.	Authorizing operation of water system	Oct. 5, 1922
11057	7241	Reginald W. Gubagedoff and Reuben D. Rosenberger	Decision No. 9618 revoked and annulled	Oct. 5, 1922
11058	8160	J. G. Cottrell	Amending Decision No. 11026	Oct. 5, 1922
11062	C. 1635	Mrs. F. K. Morri et al. vs. W. S. Laurie	Petition for rehearing denied	Oct. 5, 1922
11063	C. 1709	Town of Corde Madera vs. N. W. Pacific R. R. Co.	Petition for rehearing denied	Oct. 5, 1922
11078	A. 8292	Moorpark Water, Light and Power Company and Ventura County Water District No. 1	Former authorized to transfer water system and property to latter	Oct. 7, 1922
11084	7838	A. Nicholette and D. S. McCarty	Decision No. 10504 revoked and annulled	Oct. 7, 1922
11085	7878	Board of Supervisors of Los Angeles County	Amending Decision No. 10704	Oct. 7, 1922
11086	8268	Pittsburg-Sacramento Auto Ferry, Inc.	Modifying Decision No. 11048	Oct. 7, 1922
11087	C. 1698	Commission vs. Coast Valleys Gas and Electric Co.	Relative to overhead construction	Oct. 7, 1922
11089	C. 1601	Petaluma and Santa Rosa Ry. Co. vs. Paris P. Lawson et al.	Petition for rehearing denied	Oct. 7, 1922
	C. 1608	Northwestern Pac. Ry. Co. vs. Paris P. Lawson et al		
11098	8251	Napa City Water Company and City of Napa	Former authorized to transfer to latter physical and water plant	Oct. 11, 1922
11108	C. 1698	Investigation of Railroad Commission into compliances of Chapter 499 of the Statutes of 1911, as amended by Chapter 600, Statutes of 1915 (Ojai Power Company)	Time extended to July 1, 1923, to conform with provisions of Chapter 499 of the Statutes of 1911, etc.	Oct. 14, 1922
11109	C. 1698	Investigation of Railroad Commission into compliances of Chapter 499 of the Statutes of 1911, as amended by Chapter 600, Statutes of 1915. (San Jose Railroads)	Time extended to July 1, 1923, to conform with provisions of Chapter 499 of the Statutes of 1911, etc.	Oct. 14, 1922
11115	C. 1720	Wm. J. O'Rouke et al. vs. Haines Canyon Water Co.	Petition of defendant for rehearing denied	Oct. 14, 1922
11129	6231	Associated Tel. Company	Supplemental order authorizing execution of supplemental indenture	Oct. 18, 1922
11130	3666	Southern California Edison Co. and City of Pasadena	Supplemental order affirming agreement	Oct. 18, 1922
11136	8090	Southern Pacific Company	Supplemental order authorizing construction of grade crossing	Oct. 19, 1922

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TABLE A. MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Continued.

Dec. No.	Application No.	Applicant	Nature of proceeding	Date
11139	C. 1728	Investigation into the methods and operations of James W. Gray "Coastside Transportation Company" operating passenger and freight service between San Francisco and Pescadero—On the Commission's own motion	Petition for rehearing denied	Oct. 19, 1922
11149	7055	Atchison, Topeka and Santa Fe Railway Company	Revoking Decision No. 9344	Oct. 20, 1922
11162	7774	Postal Telegraph-Cable Company	Authority to reopen office in Vacaville	Oct. 25, 1922
11163	8122	George B. Adams	Certificate auto passenger service, Sacramento-Florin	Oct. 25, 1922
11165	8271	Southern California Gas Company	Authorizing issue and sale of bonds	Oct. 25, 1922
11168	5690	S. S. Gilespie	Certificate auto passenger service, Santa Maria-Betteravia	Oct. 26, 1922
11176	4851	Will G. Mays et al	To operate passenger service, Dinuba-Hanford	Oct. 28, 1922
11178	C. 1741	Lillian M. Stewart et al. vs. G. H. Richardson	Petition for rehearing, water system, public utility, status of	Oct. 28, 1922
11192	6425, 8329	Southern California Edison Company	Supplemental order amending Decision Nos. 11104-11107	Oct. 31, 1922
11194	7930	California Tel. and Light Company	Authorizing issue and sale of bonds	Nov. 3, 1922
11204	7886	San Francisco-Oakland Terminal Railways	Authorizing issue of equipment trust notes	Nov. 6, 1922
11205	7715	San Joaquin Light and Power Company	Authoring use of proceeds from sale of bonds	Nov. 6, 1922
11207	6125	Southern California Edison Company	Authorizing issue and sale of bonds	Nov. 8, 1922
11219	5583	J. H. Buick	Supplemental order revoking Decision No. 7635	Nov. 10, 1922
11220	7460	John Clifton Thomas	Supplemental order revoking Decision No. 10128	Nov. 10, 1922
11228	C. 1709	Town of Corte Madera vs. Northwestern Pac. Ry.	Installation of crossing signals	Nov. 13, 1922
11246	8359	Garden Grove City Water Company et al	Authorizing renewal of notes	Nov. 18, 1922
11254	C. 1769	P. Clifton Homer et al. vs. A. T. Baldwin	Modifying water rates	Nov. 20, 1922
11255	7839	Peninsula Railway Company	To amended contract—joint use of railroad tracks	Nov. 20, 1922
11258	8254	Postal Telegraph-Cable Company	Authorizing close of office in Santa Paula	Nov. 23, 1922
11272	8290	Home Telephone Company of Covina	Authorizing sale of real estate and construct exchange in Puente	Nov. 23, 1922
11276	8271	Southern California Gas Company	Authorizing issue and sale of bond	Nov. 24, 1922
11277	7882	Consolidated Motor Freight Lines, Inc.	Authorizing issue of stock	Nov. 24, 1922
11278	8032	Southern California Edison Company	Authorizing sale of stock	Nov. 24, 1922
11279	8323	Southern California Edison Company	Authorizing supplemental trust indenture	Nov. 24, 1922
11286	7808, 8104	California-Oregon Power Company	Authorizing issue and sale of stock	Nov. 27, 1922
11287	6425	Southern California Edison Company	Authorizing issue and sale of bonds	Nov. 27, 1922
11289	5550	Santa Maria Gas Company	To purchase property of Midland County P. S. Corporation, increase rates and issue securities	Nov. 27, 1922
11290	7632	Southern California Edison Company	Petition for rehearing on sale of distributing system of City of Los Angeles denied	Nov. 29, 1922
11295	8353	Del Monte Light and Power Company	Authorizing sale of properties to Coast Valleys Gas and Electric Company and latter company to issue bonds—supplemental order	Nov. 29, 1922
11298	8416	Los Angeles Harbor Warehouse Company	Exclusion from jurisdiction of railroad company	Dec. 1, 1922
11302	0624	Albert Caruso	To operate auto passenger service, Palo Alto-Woodside	Dec. 1, 1922

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11308	7807	Herman Telephone Company	Certificate telephone service Biola, Fresno County, denied	Dec. 5, 1922
11345	5009	San Diego Electric Railway Company	Second supplemental order—to discontinue service and suspend operation—dismissed	Dec. 11, 1922
11362	2987	Los Angeles and Salt Lake Railroad Company	Construction of crossing at grade across 25 streets and highways and tracks, Atchison, Topeka and Santa Fe and Pacific Electric Railway Company, Fullerton	Dec. 15, 1922
11365	407	Vallejo and Northern Railroad Company	Construction of crossing across tracks of Southern Pacific at Suisun, Solano County	Dec. 15, 1922
11371	8345	Postal Telegraph and Cable Company	Authorizing close of office at Visalia	Dec. 22, 1922
11373	5735	United Stages, Inc.	Petition for rehearing to sell certain franchise to O. R. Fuller, Los Angeles-San Diego	Dec. 22, 1922
11383	C. 1473	United Stages, Inc., et al.	Petition for rehearing, investigation on Commission's own motion as to regulations, rules and practices of	Dec. 22, 1922
11384	7863	Ben H. McFarland	Certificate auto stage service, San Bernardino-Rand District	Dec. 22, 1922
11385	8177	Board of Supervisors, Sacramento County	To construct crosing at grade across Southern Pacific tracks between Ben Ali-Walerga	Dec. 22, 1922
11397	8484	Mrs. G. Guerra, Cambria Telephone Company	Authorizing sale and transfer of telephone system to I. R. Court	Dec. 23, 1922
11398	1641	Woodworth Campbell, agent of M. Fay & Sons, et al.	Modifying Decision No. 9593, relative to automotive classification of account	Dec. 23, 1922
11409	7137	Henry Mangols	To operate stage service, Saugus-Los Angeles	Dec. 29, 1922
11410	7137	Henry Mangols	Petition for rehearing denied	Dec. 29, 1922
11435	8390	Home Telephone Company of Covina	To sell real estate and construct exchange building	Dec. 29, 1922
11446	7565	California Highway Express	Petition for rehearing and modification of order to operate truck lines, Los Angeles-San Francisco	Dec. 29, 1922
11454	C. 1749	Highland Park Chamber of Commerce vs. Los Angeles and Salt Lake Railway Company	Petition for rehearing, automotive crossing signals, denied	Dec. 29, 1922
11455	C. 1788	A. O. Richardson vs. Frank McKelverry et al.	Petition for rehearing auto stage service, Sacramento-Placerville	Dec. 29, 1922
11459	8288	J. C. Libbee	Petition for rehearing to operate freight service, Fresno-Caruthers	Jan. 3, 1923
11460	C. 1748	Highland Park Chamber of Commerce vs. Atchison, Topeka and Santa Fe Railway	Application for rehearing, installation automotive crossing signals	Jan. 3, 1923
11463	3139	Western Pacific Railroad	Construct crossing at grade across certain highways and streets in Santa Clara	Jan. 3, 1923
11478	7522	Los Angeles Gas and Electric Company	Authorizing issue and sale of stock	Jan. 8, 1923
11479	5550	Santa Maria Gas and Electric Company	Purchase certain properties Midland Counties P. S. Corporation, increase rates and to issue securities	Jan. 8, 1923
11482	7147	Sacramento Northern Railroad et al.	Sale of properties, etc., and to issue stock and bonds	Jan. 9, 1923
11499	3733	J. C. Reynolds	To operate passenger service, Lakeport-Bartlett Springs	Jan. 12, 1923
11500	7125	Warren Slinkard	To operate passenger and freight service, Eagleville-Cedarville	Jan. 12, 1923
11502	8128	B. W. Halberson ("Modesto-L. A. Grange Stage")	To operate through passenger service, Modesto-Don Pedro Bar	Jan. 12, 1923
11503	2713	Southern Pacific Company	Modifying Decision No. 10638—construction of grades across tracks of Southern Pacific between Lyoth-Yarmouth, San Joaquin County	Jan. 12, 1923
11519	5323	J. M. Reese et al.	Petition for rehearing, certificate auto stage service, Los Banos-Tracy, denied	Jan. 16, 1923

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11520	5477	I. T. Pullman	Petition for rehearing passenger service, Los Angeles-Montebello, denied	Jan. 16, 1923
11521	7231	City of Stockton	Petition for rehearing denied to determine just compensation to be paid Pacific Gas and Electric Company for water system	Jan. 16, 1923
11535	8571	Inyo County Telephone Company	Sale and transfer of properties to United States Government	Jan. 22, 1923
11540	8537	United States Farm Land Company	To purchase properties of Chowchilla Land Company	Jan. 22, 1923
11541	8514	East Bay Water Company	Authorizing sale of real property	Jan. 22, 1923
11544	4742	People of the State of California vs. Department of Engineering	Revoking prior order, construction of crossing over tracks of Nevada County Narrow Gauge Railroad	Jan. 23, 1923
11554	5671	Thomas H. Campbell	To operate passenger service, Weaverville-Peanut	Jan. 24, 1923
11562	4020	Noah S. Branham	Certificate passenger freight service, Paskanta-Corning	Jan. 25, 1923
11571	8216	San Diego Electric Railway Company	To operate bus line, Edgeware street, Kensington Park, San Diego	Jan. 26, 1923
11588	C. 1173	City of Pittsburg vs. Pacific Gas and Electric Co.	To fix just and reasonable rates for electric service	Feb. 3, 1923
11592	4170	R. L. Paine	To operate passenger-freight, Mariposa-Bagby	Feb. 6, 1923
11593	4213	John R. Gray	Certificate express and freight service, Groveland, Chinese Station, Tuolumne County	Feb. 6, 1923
11594	6504	Rapid Transit Company	To operate stage and express service, Santa Monica-Topango Canyon	Feb. 6, 1923
11595	8098	Fort Bragg Electric Company	To change rate schedules	Feb. 6, 1923
11596	8321	Northwestern Redwood Company et al.	To sell electric distributing system to Willits Water Power Company and latter company to sell to Central Mendocino Power Company	Feb. 6, 1923
11597	2145	Pacific Gas and Electric Company	Time extended to comply with provisions of Chapter 499, Laws of 1911, as amnded by Chapter 600, Laws of 1915	Feb. 6, 1923
11603	6975	Thomas Water Company	Petition for rehearing—valuation of property and fix rates—denied	Feb. 6, 1923
11631	4921	C. H. Barton et al.	To operate passenger and freight service, Yreka-Walker	Feb. 9, 1923
11634	8138	Frank H. Griffin et al. ("Yellow Pennant Stages")	To operate passenger service, King City-Coalinga	Feb. 13, 1923
11671	2222	Southern California Edison Company	Time extended to comply with provisions of Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915	Feb. 16, 1923
11672	C. 1608	Ontario Power Company	Time extended to comply with provisions of Chapter 499, Laws of 1911, as amended by Chapter 600, Laws of 1915, on Commission's own motion	Feb. 16, 1923
11680	8364	John H. Scarborough	To discontinue water service	Feb. 20, 1923
11691	8631	Benj. Franklin Nelson ("Mevin Place Water Plant")	Authorizing mortgage water company	Feb. 20, 1923
11701	8386	Albert B. Holsen ("Holsen Heights Water Company")	Authorizing abandonment of water service	Feb. 21, 1923
11702	8651	Sacramento Northern Railroad	To dispose certain real property at Sycamore Station, Colusa County	Feb. 21, 1923
11709	3808	San Diego Railway Company	Investigation of reasonableness of rates, rules and regulations, etc., on Commission's own motion	Feb. 21, 1923

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TABLE B. AUTO STAGE APPLICATIONS.

Dec. No.	App. No.	Applicant	Nature of application	Action	Date
10680	7527	Frank Governor and J. M. Maurer et al.	Transfer stage line, Sacramento-Redding	Granted	July 8, 1922
10686	7542	A. F. Burgin	To operate auto stage, Sacramento and Jackson	Granted	July 10, 1922
10687	7903	Ash Brothers	To operate freight service, Los Angeles-Balleys Ranch	Denied	July 10, 1922
10693	7697	B. F. Morris and A. E. Dolan	To operate truck service, Happy Valley-Alameda County	Granted	July 11, 1922
10696	7587	Walter M. Collins and M. B. Bacon	To transfer stage line, Visalia and General Grant Park	Granted	July 11, 1922
10708	7852	Claude E. Riley	To operate passenger service, St. Helena and Walters Springs	Granted	July 15, 1922
	7873	W. V. Tinchell	To extend service from Pope Valley to Walters Springs	Denied	July 15, 1922
10709	7874	J. A. Collins et al.	To operate truck service, Turlock-Oakland	Denied	July 15, 1922
10710	6391	W. W. Sanpid et al. (rehearing)	To operate stage service, Sacramento-Redding	Denied	July 15, 1922
10711	7983	W. M. Boyce and C. A. Schoen	To operate passenger service, Redlands-Yucaipa	Granted	July 15, 1922
10712	7989	S. T. Robinson	To operate stage line between Seeley-El Centro	Granted	July 15, 1922
10713	7998	C. M. Clark and H. Frasher	To transfer truck service, Fresno-San Joaquin	Granted	July 15, 1922
10714	8010	J. V. Woodcock and A. E. Flyn	To Transfer passenger service, Mokelumne Hill-West Point	Granted	July 15, 1922
10716	8036	Joseph Deschamp-J. F. Baker	To transfer passenger service, Copperopolis-Stockton	Granted	July 15, 1922
10723	8016	T. L. Tally et al.	To operate passenger service, Glen Ranch-San Bernardino	Granted	July 15, 1922
10725	8047	A. H. Wetherbee and R. E. Woodhams	To transfer freight service, Redwood City-San Gregorio	Granted	July 19, 1922
10727	8048	Jacob J. Reppert	To operate passenger and freight service, Elk Creek-Stonyford	Granted	July 19, 1922
10730	7973	H. H. Davis and Davis & Haynes	To transfer truck service, Fresno and Lemoore	Granted	July 19, 1922
10732	7794	E. L. Barlow et al. and Barlow-C. E. Oldham	To transfer one-third interest truck service, Los Angeles-Arcadia	Granted	July 20, 1922
10733	7888	R. B. Cregan	To operate freight service between Riverside-Keen Camp	Granted	July 20, 1922
	7889	R. B. Cregan	To operate passenger servic between Riverside-Keen Camp	Granted	July 20, 1922
10734	7891	William E. Webb	To oprate freight service between Hynes and Los Angeles	Denied	July 20, 1922
10735	7959	James M. Simpson	To operate freight service between Alderpoint-Harris	Granted	July 20, 1922
10736	8058	Harry M. Moumjian and A. Vasilious	To transfer truck service, Strawberry Park-Los Angeles	Granted	July 20, 1922
10737	8064	T. M. Littlefield and F. E. Hoyt	To transfer stage line between Paso Robles-Klan	Granted	July 20, 1922
10738	7790	L. S. Misener	To operate freight service, Monterey-Oakland	Denied	July 20, 1922
10739	8068	W. I. Long et al. and Davis S. Mitchell	To transfer passenger and freight service, Suisun-Blever	Granted	July 20, 1922
10740	8069	Henry W. Bowen and Alonia Frandrup	To transfer passenger and freight service, Marysville-La Porte	Granted	July 20, 1922
10741	8071	M. L. McCausland and John S. Hencratt	To transfer stage line between Red Bluff and Hunter	Granted	July 20, 1922
10750	7659	Herman Sheves and C. R. Spickard	To transfer stage line between Sacramento and Auburn	Granted	July 21, 1922
10751	7710	F. S. Frye et al.	Certificate passenger service between Bidwell Bar and Adelaide	Granted	July 21, 1922
10752	7884	Puente Truck and Express Company	Certificate express and truck service between Puente-Los Angeles	Granted	July 21, 1922
10753	7918	Palisades Bus Line	Passenger service between Pacific Palisades and L. A. High School	Granted	July 21, 1922
10754	7964	Rollins Cochran	Passenger service between Los Angeles and Kernville	Granted	July 21, 1922
10766	8078	Elec Garcia and Arthur A. Oswald	To transfer passenger and freight line, Lonoak-King City	Granted	July 22, 1922
10768	7844	A. B. Blond	Passenger stage service between Holtville and Brawley	Granted	July 25, 1922
10769	7911	Siskiyou Auto Stage Company	Passenger and service between Weed, Cal. and Klamath Falls, Ore.	Denied	July 25, 1922
10770	8019	J. D. Weiss	Passenger and freight service between Fall River Mills and Bieber	Granted	July 25, 1922

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Dec. No.	App. No.	Applicant	Nature of application	Action	Date
10771	8066	Louis E. Smith et al. and E. D. Lavine	To transfer stage line between Susanville and Doyle	Granted	July 25, 1922
10772	8084	C. L. Lowry and F. D. Jamison	To transfer stage line between Fresno-Auberry	Granted	July 25, 1922
10773	8087	H. W. Shuman and Frank Snyder et al.	To transfer passenger line between Madera and Sugar Pine	Granted	July 25, 1922
10775	7912	A. E. Blanc	To operate freight service between San Diego and Julian	Denied	July 25, 1922
10781	8038	Edwin Mitchell	To operate stage line between Annapolis and Stewart's Point	Granted	July 25, 1922
10783	8083	Henry German and J. P. Muscardini	To transfer passenger and freight service, Nevada City-Graniteville	Granted	July 25, 1922
10788	8091	F. W. Teetzel and Wm. H. Powell et al.	To transfer passenger line between Los Angeles and Bakersfield	Granted	July 27, 1922
10789	8092	Motor Transit and James Borden	To transfer stage service between Riverside and Stage Agricultural Experiment Station	Granted	July 27, 1922
10802	7963	Albert A. Bellan	Passenger and freight service between Olancha and Darwin	Denied	Aug. 1, 1922
10803	7935	W. A. Gibson	Passenger and baggage service between Independence and Kearsarge	Denied	Aug. 1, 1922
10804	7881	Bay Cities Transit Company	Passenger service between Soldiers' Home and Santa Monica	Granted	Aug. 1, 1922
10809	8116	Henry Denning and C. J. Hemenger	To transfer truck service, Saugus-Los Angeles	Granted	Aug. 1, 1922
10810	8119	Hugh Bradley (deceased) and Mrs. Hugh Bradley	To transfer stage service between Oceanside and Pala	Granted	Aug. 1, 1922
10815	7809	A. J. Lester et al.	Express service between Santa Maria and Guadalupe	Granted	Aug. 3, 1922
10817	7947	G. F. Willhite	Passenger and baggage service between Orleans and Happy Camp	Denied	Aug. 3, 1922
10818	7985	Harry S. Payne et al.	Freight service between Los Angeles and Temecula	Granted	Aug. 3, 1922
10819	7856	Mark W. Gordon	Passenger and mail service between Fortuna and Bridgeville	Denied	Aug. 3, 1922
10820	7986	J. W. Fouch	Passenger and freight service between Maxwell and Stonyford	Granted	Aug. 3, 1922
10821	8013	John Freeborn and Benj. Stevens	To transfer freight and passenger service between Montgomery Creek and Big Bend	Granted	Aug. 3, 1922
10822	8106	C. F. Iverson and John L. Joslin	To transfer passenger and freight service, Paso Robles-Annette	Granted	Aug. 3, 1922
10823	8117	B. W. Belyea	Discontinuance service between Los Angeles and Eagle Rock	Granted	Aug. 3, 1922
10826	7674	O. N. Thomas and W. H. Neher	To transfer stage line operating between Pomona and San Dimas	Granted	Aug. 4, 1922
10827	8127	Sierra Chautauqua and Bible Conference Ass'n	To operate passenger service, Camping Grounds-Huntington Lake	Granted	Aug. 4, 1922
10830	7890 / 7923	T. J. Shea / T. T. Thompson	Freight and truck service between Los Angeles-Baldwin Park / Freight and truck service between Los Angeles-Baldwin Park	Granted	Aug. 10, 1922
10835	7974	Hugh O'Neill et al.	To operate truck line between Ferndale and Petralia	Denied	Aug. 10, 1922
10836	8020	Plen Mathews	To operate passenger and freight stage line between Imperial Beach and Coronado	Granted	Aug. 10, 1922
10837	8006	H. A. Reed and Gus Peterson	To transfer passenger line between Arcata, Hoopa and Pony Bar	Denied	Aug. 10, 1922
10838	8005	C. J. Rupley and C. W. Ganon	To transfer passenger freight service, Auburn-Georgetown	Denied	Aug. 10, 1922
10842	8133	Van W. Spagnoli and Wm. B. Hogan	To transfer passenger service between Concord and Avon	Granted	Aug. 10, 1922
10850	7980 / 8060	Mrs. C. W. Mingus / Joe Bozoff et al.	Truck service between Center St. and Michigan, Los Angeles County / Milk freight service between Los Angeles, Hynes and Clearwater	Denied	Aug. 10, 1922
10853	8004	Swingle & Hollock	Certificate passenger and freight between Blairsden and Sierra City	Granted	Aug. 10, 1922
10854	8025	Olsen & Ward	Passenger service between Reno, Nev., and Alpine, Cal.	Denied	Aug. 11, 1922
10855	8063	Walter Yager	Stage line between Meadow Valley and Quincy	Granted	Aug. 11, 1922
10857	7939	David W. Taylor	Freight service between Oakland and Pleasanton	Granted	Aug. 15, 1922

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10878	8149	J. S. Baker-Jos. Deschamp	To transfer passenger service between Copperopolis and Milton	Granted	Aug. 17, 1922
10882	8042	Anthony F. Rose	Truck service, Milpitas and Hayward	Granted	Aug. 19, 1922
10884	8057	Bakersfield and Los Angeles Fast Freight Co.	Freight and delivery service between Castaic and Bakersfield	Granted	Aug. 19, 1922
10886	7979	Russell A. Peck and United Parcel Service	To transfer truck and delivery service between Los Angeles and interurban points	Granted	Aug. 19, 1922
10892	7585	Wm. C. J. Quast	Passenger bus service in the town of Maywood and Los Angeles	Denied	Aug. 23, 1922
10894	7971	Jack Passmore	Passenger service between San Diego and Tiajuana	Denied	Aug. 23, 1922
10921	8207	J. C. Smith and V. C. Gorst et al	To lease stage service	Granted	Aug. 30, 1922
10923	8210	Guido de Ghetaldi and Chas. Kuppinger	To transfer freight service between Ukiah and Upper Lake	Granted	Aug. 31, 1922
10931	8083	L. E. Mallery	Truck service in San Bernardino and Oro Grande	Denied	Sept. 2, 1922
10936	8200	Chas. Preston and P. H. Peterson	To lease stage line between Maple Creek and Korbel	Granted	Sept. 2, 1922
10937	8186	Alphonso Schwartz and F. J. Moomey	To transfer passenger and freight line, Nevada City-Washington	Granted	Sept. 2, 1922
10938	8199	F. K. Sakaki and Jos. Fauce	To transfer freight line between San Jose and San Francisco	Granted	Sept. 2, 1922
10939	8212	G. B. Santos and J. E. Garcia	To transfer freight line between East San Jose and Oakland	Granted	Sept. 2, 1922
10940	8218	W. F. Walter and Clyde F. Dayton	To transfer passenger and freight line between Bradley and Bryson	Granted	Sept. 2, 1922
10942	8217	Wm. F. Davis and Jas. M. Pieratt	To transfer passenger and freight line, Lockwood-San Lucas	Granted	Sept. 2, 1922
10959	8110	Hubert A. Adams	Increase passenger fares, San Diego to La Mesa and El Cajon	Granted	Sept. 7, 1922
10963	7960	A. H. Landers	Motor truck service between Fresno and Raisin City	Denied	Sept. 7, 1922
10964	8026	Marin County Parcel Delivery	Parcel delivery service between San Francisco and San Rafael	Denied	Sept. 7, 1922
10965	8224	Henry T. Campbell and Pickwick Stages	Transfer passenger service between San Jose and Salinas	Granted	Sept. 7, 1922
10973	7990	Vic Poncelet	Passenger and express service, Gilroy-Gilroy Hot Springs	Denied	Sept. 7, 1922
	8002	Gilroy Garage	Passenger service between Gilroy and Gilroy Hot Springs	Denied	Sept. 7, 1922
10974	7994	W. H. Wimer	Freight service between Callahan and Gazelle	Granted	Sept. 7, 1922
10976	8003	Ben Tonini and H. L. MacConnell	To transfer freight and passenger service between San Luis Obispo and San Simeon	Denied	Sept. 8, 1922
10979	7257	A. E. Shrainer	Auto truck service between Los Angeles and Tropico	Granted	Sept. 14, 1922
10981	7946	G. Lawrence Ritchie and Pickwick Stages	Transfer stage service bet. Santa Ysobel and Warners Hot Springs	Denied	Sept. 14, 1922
10983	7065	J. A. Don	Freight and truck service between Sacramento and Rio Vista	Denied	Sept. 14, 1922
10986	8240	J. R. Langille and J. L. Martin et al	Transfer passenger service between Chico and Hamilton City	Granted	Sept. 14, 1922
11002	6216	Star Auto Stage Co.	Passenger service between Pleasanton and Santa Rita	Denied	Sept. 19, 1922
11007	8258	J. F. Birch and A. Dunham	Transfer stage line between Santa Rosa and Healdsburg	Granted	Sept. 20, 1922
11009	8118	C. H. Pennoyer and W. H. Burkey	Transfer freight franchise and finding by Commission of prior operative right of C. H. Pennoyer in above franchise between San Diego and Descanso	Denied	Sept. 20, 1922
11016	8055	Wm. Giacomozzi	Freight service between Santa Clara and Oakland	Granted	Sept. 26, 1922
	8065	Wm. Giacomozzi	Freight service between Alvarado and San Francisco	Granted	Sept. 26, 1922
11019	7958	Pat Silvestri	Truck service between East San Jose and San Francisco	Granted	Sept. 26, 1922
11021	8033	A. J. Lawrence	Fruit and produce service between E. San Jose, Oakland and S. F.	Granted	Sept. 26, 1922
11022	8125	Geo. J. Abajian and Jos. K. Hawkins	Auto truck service between Wineville and Los Angeles	Granted	Sept. 26, 1922
11023	8172	J. C. Bargar	Truck service between Ramona and San Diego	Denied	Sept. 26, 1922
11026	8160	J. H. Cottrell	Passenger and express service between San Diego and Tecate	Granted	Sept. 26, 1922
11027	7660	R. W. Rasmussen	Freight service between Oakland and Hollister	Denied	Sept. 26, 1922

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11044	7955	D. A. Kelsey	Freight service between Kelseyville and Cloverdale	Denied	Oct. 2, 1922
	8011	C. E. Doty	Freight service bet. Kelseyville and Hopland to include Cloverdale	Denied	Oct. 2, 1922
	8208	C. E. Doty	To establish new route between Hopland and Kelseyville, serving Finley	Granted	Oct. 2, 1922
11046	7673	R. E. Stowe	Freight service between Isleton and Rio Vista	Granted	Oct. 2, 1922
11065	7921	Marshall Dunkin	Passenger and freight service between Placerville and Cool	Granted	Oct. 7, 1922
11066	7948	Woodson Bros.	Freight service between Petaluma, Fallon and Tomales	Granted	Oct. 7, 1922
11067	8022	Geo. B. Adams	Passenger service between Sacramento and Florin	Granted	Oct. 7, 1922
11070	8088	W. R. DeWolf	Auto stage service between Diamond Springs and Sacramento	Granted	Oct. 7, 1922
11071	8096	A. E. Mallett et al.	Auto truck line between Placerville, Sacramento and Corning	Granted	Oct. 7, 1922
11072	8114	Wilkinson Brothers	Freight and passenger service between Alderpoint and Hoaglin	Granted	Oct. 7, 1922
11073	8151	Oliver A. Cooper	Freight and passenger service between Blocksburg and Fort Seward	Granted	Oct. 7, 1922
11074	8165	Connor Bros.	Freight service between Covelo and Dos Rios	Denied	Oct. 7, 1922
11075	8166	Geo. R. Zurfluh	Passenger service between Fair Oaks and Sacramento	Granted	Oct. 7, 1922
11076	8235	A. Ellis	Delivery truck service between Bodega and Sebastopol	Granted	Oct. 7, 1922
11077	8168	Soren Sorenson	Passenger freight service between Los Olivos and Gaviota	Denied	Oct. 7, 1922
11081	8204	S. & F. Auto Truck Line and Santa Fe Express and Drayage Company	Through route and joint rates between San Francisco and San Jose	Denied	Oct. 7, 1922
11082	8275	Frank P. McCarthy and Gerald Cuneo	To transfer stage line between Valley Springs and Mokelumne Hill	Granted	Oct. 7, 1922
11083	8286	Ray L. Dean and Smith Auto Company	Transfer stage line between Bishop-Laws	Granted	Oct. 7, 1922
11088	8005	C. J. Rupley and C. W. Ganoro	Transfer passenger-freight line between Auburn-Georgetown	Denied	Oct. 7, 1922
11105	7752	Edgar L. Forest (rehearing)	Freight and express service between Culver City-Los Angeles	Denied	Oct. 14, 1922
11114	7660	R. W. Rasmussen (rehearing)	Freight service between Oakland-Hollister	Denied	Oct. 14, 1922
11120	8250	F. E. Smith and Elmer F. Scott	To transfer auto truck service between Mission Acres-Los Angeles	Granted	Oct. 18, 1922
11133	8003	Benj. Tonini and E. L. McConnel	To transfer passenger-freight service between San Luis Obispo-San Simeon; petition for rehearing	Denied	Oct. 18, 1922
11137	8159	M. S. Cunha et al.	To establish auto freight service between San Jose-San Francisco-Oakland	Granted	Oct. 19, 1922
11138	8205	W. K. Buck	To operate freight truck service between Niles-San Francisco	Denied	Oct. 19, 1922
11143	8308	Joseph Deschamp	To operate passenger and baggage service, Copperopolis-Milton	Granted	Oct. 19, 1922
11144	8338	A. J. Lester and Anthony M. Cornero	To transfer passenger-express service, Santa Maria-Guadalupe	Granted	Oct. 20, 1922
11147	8306	Pacific Motor Express	To operate motor truck service between Los Angeles-Pauba Ranch	Granted	Oct. 20, 1922
11148	8307	Pickwick Stage N. D.	To transfer passenger service between San Jose, Gilroy and intermediate points	Granted	Oct. 20, 1922
11156	8079	H. Gallerson et al.	To operate passenger-baggage service between Yreka and Weed	Denied	Oct. 23, 1922
11171	8126	Thomas E. Cheney	To operate passenger and freight service, Santa Monica-Topango Canyon	Granted	Oct. 27, 1922
11174	8353	William W. Wiegand et al.	Transfer auto truck service, San Jacinto and Los Angeles	Granted	Oct. 27, 1922

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11175	8138	Frank H. Griffin et al., "Yellow Pennant Stages"	To operate passenger service, King City-Coalinga	Granted	Oct. 28, 1922
11183	7929	W. M. Huffman	To operate freight service, Oakland, Berkeley and Turlock	Denied	Oct. 31, 1922
11185	8242	G. L. Ledford et al.	To operate passenger and freight service, Navarro-Albion	Denied	Oct. 31, 1922
11187	8281	Wm. Barr	Passenger, express and baggage between Tiburon, Belvedere, Alto and Tamalpais High School	Granted	Oct. 31, 1922
11188	8325	A. C. and F. H. Foss	Freight service, San Leandro-San Lorenzo-Oakland-Berkeley	Granted	Oct. 31, 1922
11197	8260	Adam & Peck	Freight service, Ontario-Los Angeles	Denied	Nov. 6, 1922
11208	8185	Chas. A. Hare, "Valley Coast Lines"	Passenger and express service, Bakersfield-Lost Hills	Granted	Nov. 10, 1922
11211	8105	Joseph Miller	Visalia-Tulare, passenger	Granted	Nov. 10, 1922
11212	8282	G. A. Law & Company	Auto transportation service, Cotati-Petaluma	Granted	Nov. 10, 1922
11213	8302	Sullivan's Tranfer and Storage	Freight service, Manteca-San Francisco	Denied	Nov. 10, 1922
11214	8259	Oscar N. Green	Freight and express service, Victorville-San Bernardino	Granted	Nov. 10, 1922
11215	8236	H. H. Hessig	To operate passenger-freight service, Beswick-Ager	Granted	Nov. 10, 1922
11217	8389	Ben. R. Pedranti	To transfer operative rights to Louis V. Gisbastiani et al., Point Reyes Station-Inverness	Granted	Nov. 10, 1922
11218	8395	Gene Antichi et al.	To transfer passenger service to B. Gibson, Sacramento-Rio Vista	Granted	Nov. 10, 1922
11223	1823	G. Lawrence Ritchie	To operate freight and passenger stage service, San Diego-Warner's Springs-Montezuma-Oak Grove and mountain resorts in the vicinity	Dismissed	Nov. 13, 1922
11225	8128	B. L. Halverson, "Modesto-L. A. Grange Stage"	To operate passenger and freight service, Modesto-Don Pedro Bar	Dismissed	Nov. 13, 1922
11224	8267	Pickwick Stages, Inc.	Extend auto stage service from Santa Ysabell to Warner's Hot Springs	Granted	Nov. 13, 1922
11227	8396	F. A. Carr	To transfer operative rights to River Auto Stage, Walnut Grove-Stockton	Granted	Nov. 13, 1922
11241	8277	Tom Boyle et al.	To transfer auto stage service to Pickwick Stages, Elsinore-Riverside	Granted	Nov. 16, 1922
11261	8278	G. H. Blount et al.	To operate passenger, freight and express service, Stephenson-Turlock	Granted	Nov. 23, 1922
11266	6943	Clement Bros.	To operate passenger and express service, Paso Robles-San Luis Obispo	Denied	Nov. 23, 1922
11271	8340	Monte Wells	To transfer operative rights to A. Campbell, Los Angeles-Blythe	Granted	Nov. 23, 1922
11292	8024	Mrs. F. O. Williams	To extend freight service to Wasco from Shafter	Granted	Nov. 29, 1922
11294	8288	J. C. Libbee	To operate freight service, Fresno-Caruthers	Denied	Nov. 29, 1922
11293	O-1781	Yreka R. R. Co. vs. Hugo Miller et al.	Unlawful operation, Montague and Yreka	Dismissed	Dec. 1, 1922
11299	8422	Ernest Del Cielo	To transfer operative rights to Bandettini and Villanti, San Francisco, Colma, Pedro Valley	Granted	Dec. 1, 1922
11300	8432	A. J. Nickerson	To transfer operative rights to W. A. Warner, Sacramento, Woodland	Granted	Dec. 1, 1922
11301	8439	H. O. Waterman et al.	To transfer operative rights to Geo. R. Carne, L.A., Ventura, Ojai	Granted	Dec. 1, 1922
11307	8279	L. B. Goodin	To operate freight and baggage service, San Francisco, Woodland and Oakland	Denied	Dec. 5, 1922
11309	8274	V. W. Butler	To operate passenger service, Cottonwood-Red Bluff	Granted	Dec. 5, 1922

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Dec. No.	App. No.	Applicant	Nature of application	Action	Date
11311	8399	Jas. A. Gray	To transfer operative rights to Marcus J. Peete, Palm Springs-White Water Railroad Station	Granted	Dec. 5, 1922
11312	8419	Barshan & Brown	To operate passenger and express service, French Gulch-Carrville	Granted	Dec. 5, 1922
11315	8423	Walter Yager	To operate stage, Quincy-Meadow Valley	Granted	Dec. 5, 1922
11320	8459	John Bieber	To operate passenger service, Mariposa-Grass Valley	Granted	Dec. 5, 1922
11321	8465	Geo. P. Miller	To transfer operative rights to Lester Heaindel, Placerville-Georgetown	Granted	Dec. 5, 1922
11322	8456	W. R. Miles	To transfer operative to Orabb, Morgan & Orabb, Fresno-Del Rey	Granted	Dec. 5, 1922
11323	8468	Pacific Electric Railway Company	To transfer operative to Pacific Electric Land Co., San Bernardino-Highland	Granted	Dec. 5, 1922
11331	8469	C. A. Chambers	Transfer operative rights to C. A. Chambers et al	Granted	Dec. 7, 1922
11332	8477	Rio Vista Transit Company	To operate passenger and baggage service, Isleton-Rio Vista Junc.	Granted	Dec. 7, 1922
11338	8175	Joseph K. Hawkins	Certificate truck service, Los Angeles-San Bernardino	Granted	Dec. 11, 1922
	8293	J. H. Puelian	Freight service, San Bernardino-Los Angeles	Granted	Dec. 11, 1922
11339	8319	S. Lopez, Jr.	To operate passenger bus service, Twenty-sixth and Santa Fe Ave., Downey road and Los Angeles River	Dismissed	Dec. 11, 1922
	8350	Chas. B. Holbrook et al.	To operate passenger stage service, Huntington Park-Bell	Denied	Dec. 11, 1922
	8365	A. K. Shrader	To operate passenger service, Twenty-sixth and Santa Fe Ave., Pacific Blvd.	Dismissed	Dec. 11, 1922
	8381	Pacific Electric Land Company	To operate auto stage service, Twentieth and Long Beach Ave., Maywood Tract	Granted	Dec. 11, 1922
11348	8424	N. A. Webb et al., "Pasadena-Ocean Park Stage Line"	Approval of renewal of chattel mortgage	Granted	Dec. 13, 1922
11354	8487	Henry Minetti et al. "Coast Truck Co."	Transfer operative rights to E. L. McConnel, San Luis Obispo-Cambria	Granted	Dec. 13, 1922
11373	5735	United Stages and O. R. Fuller	Former to sell to latter stage line, Los Angeles-San Diego; petition for rehearing	Denied	Dec. 22, 1922
11374	8343	Pauly-Boehme	The former to latter, Oroville-Woodleaf	Denied	Dec. 22, 1922
11375	8373	D. W. Renfro	Certificate stage service, Folsom-San Juan Union High School	Denied	Dec. 22, 1922
11379	8499	E. J. Thompson	To operate stage service, Kermon-Fresno	Denied	Dec. 22, 1922
11380	8500	Johnson-Harvy	Former to sell to latter, Ukiah-Potter Valley	Denied	Dec. 22, 1922
11381	8501	Woodson & Woodson, Sullivan & Jameson	Former to sell to latter, Petaluma-Felton-Tomales	Denied	Dec. 22, 1922
11382	8507	Swanson-Briggs	Former to sell to latter, Three Rivers-Hammond	Denied	Dec. 22, 1922
11390	8371	James H. Ramsoe	To operate passenger-baggage service, Big Pine-Deep Springs-Zurich	Denied	Dec. 23, 1922
11393	8037	Ledford-Hulbert	Former to sell to latter, ½ interest, Cloverdale-Novarro-Philo-Elk	Denied	Dec. 23, 1922
11401	8426	Pacific Motor Express	To operate transfer service, Los Angeles-Prado	Denied	Dec. 23, 1922
11404	8524	Garst-Richards	To lease operative rights	Denied	Dec. 28, 1922

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11405	8142	Dillingham Transfer Company	To operate passenger service, Pasadena-Downey-Long Beach	Denied	Dec. 29, 1922
	8167	Compton Transfer Company	To operate stage service, Huntington Park-Pasadena	Denied	Dec. 29, 1922
11407	8303	Mrs. Birdie M. Macy	To operate truck service between Los Angeles-Highland Park	Granted	Dec. 29, 1922
	C1820	Birdie M. Macy vs. Hildreth S. Macy			
11411	4481	Frank L. Parker et al	To operate freight service, Alhambra-Los Angeles	Dismissed	Dec. 29, 1922
11412	7726	Busk Bros. Van and Storage Company	To operate freight service, San Francisco, Oakland, Berkeley and Alameda-N. Y.-Los Angeles, Southern Terminus	Dismissed	Dec. 29, 1922
11413	8356	L. E. Thompson	Auto freight service, Escalon-Oakland	Granted	Dec. 29, 1922
11417	8511	Paul Galto-Tochinni & Dionada	To sell operative rights, Half Moon Bay-San Francisco	Granted	Dec. 29, 1922
11423	8342	Chas. O. Smith	To operate passenger and baggage service, Highland Inn-Montery	Granted	Dec. 29, 1922
11427	8534	K. H. Rudolph-A. E. Canfield	To transfer stage line, Lompoc-Santa Maria	Granted	Dec. 29, 1922
11428	8527	Anthony M. Carnero-F. H. Hanson	To transfer stage line, Santa Maria-Guadalupe	Granted	Dec. 29, 1922
11429	8528	L. L. Ellis-E. I. Ryker	To transfer stage line, Alpaugh-Angiola	Granted	Dec. 29, 1922
11434	8443	Ernest E. Kniss	To operate freight and passenger stage service, Fort Seward-Zenia	Granted	Dec. 29, 1922
11462	8516	Ollinger & Nettler	To operate passenger service, Los Angeles-Big Bear Lake	Denied	Jan. 3, 1923
11473	8328	Hubert A. Adams, "Lloyd's El Cajon Stages"	To extend stage service to Grassmond	Granted	Jan. 8, 1922
11474	8402	Oliver Sales-Wm. Agler	To operate passenger service, Clyde-Bay Point-Avon	Denied	Jan. 8, 1923
11475	8039	R. R. Young	To operate through stage service, Stockton-Groveland	Granted	Jan. 8, 1922
11476	8547	Ben Baird-Theo. Peters	To sell freight line, Stockton-Justine	Granted	Jan. 8, 1923
11477	8553	W. T. Murray-H. N. Lein	To sell one-half interest truck service, Los Angeles-Blythe	Granted	Jan. 8, 1923
11498	8182	Lloyd S. Tripp	To operate passenger-freight service, Eagleville-Cedarville	Granted	Jan. 12, 1923
11506	8351	Robert Nicholson et al., B. H. Christian	Transfer operative rights, truck service, San Diego-Julian	Denied	Jan. 13, 1923
11510	8297	O. O. Davis, "Merchants Express"	To extend truck service, Los Angeles-Santa Ana	Denied	Jan. 16, 1923
11511	8326	E. D. Hall	To operate truck service, Los Angeles-Marian	Granted	Jan. 16, 1923
11532	8264	Joe Bozoff et al	To operate freight milk service, Long Beach-Clearwater	Granted	Jan. 20, 1923
	8348	John F. Holland	Freight truck service, Clearwater-Long Beach	Granted	Jan. 20, 1923
11533	8123	Leo F. Morrell	To operate passenger-freight service, Corning-Paskenta	Granted	Jan. 20, 1923
11547	8490	John B. Enos	To operate passenger-freight service, Weaverville-Peanut	Granted	Jan. 24, 1923
11548	8570	A. F. Burgin-A. Dunham	To sell operative rights, Sacramento-Ione	Granted	Jan. 24, 1923
11550	8565	W. F. Whitcomb	To extend stage service, Garvey road-San Gabriel-First St. and Indiana St.	Granted	Jan. 24, 1923
11551	8587	E. B. Dillingham-"Dillingham Transfer Co."	To transfer operative rights	Granted	Jan. 24, 1923
11552	8589	A. E. Dalan-P. F. Morris	To sell one-half interest freight line, Oakland-Santa Clara	Granted	Jan. 24, 1923
11553	8595	Thomas E. Cheney-Emil J. Kleinsmuth	To operate stage line, Santa Monica-Topanga Canyon	Granted	Jan. 24, 1923
11556	8406	J. R. Tedrick	To extend stage service, Painter Ave. to Santa Fe Springs	Granted	Jan. 25, 1923
	8526	Dillingham Transfer Company	To extend service, Whittier-Santa Fe Springs	Granted	Jan. 25, 1923
11557	8393	Chas. H. Kershaw	To operate service, Fresno-Minturn	Denied	Jan. 25, 1923
11559	8506	Ventura Transfer Company	To operate passenger service, Ventura-Faster Park	Granted	Jan. 25, 1923
11568	6129	The Rapid Transit Company of Pasadena	To operate passenger stage service, Pasadena-Los Angeles	Denied	Jan. 26, 1923
	6342	N. A. Webb et al.-W. H. Powell	To transfer auto stage operating rights	Denied	Jan. 26, 1923
11569	8476	Ross Forsyth-King River Transfer Co.	To transfer stage line, Fresno	Denied	Jan. 26, 1923
11570	8510	Mexico Stage Company	To operate passenger service, San Diego-Tia Juana	Denied	Jan. 26, 1923

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Dec. No.	App. No.	Applicant			
11582	8613	S. L. James	To operate passenger and freight service, Mariposa-Bagby	Granted	Feb. 3, 1923
11583	8612	James Robinson-Geo. A. Thompson et al	To sell auto freight line, Eagle Rock-Los Angeles	Granted	Feb. 3, 1923
11584	8618	George Shone-Chas. H. Biggs	To sell passenger-freight line, Napa-Atlas	Granted	Feb. 3, 1923
11586	8620	E. B. Dillingham-Dillingham Transfer Co.	To transfer operative rights	Granted	Feb. 3, 1923
11587	8621	Stanley Berry-Carroll Harington	To transfer auto stage line, Red Bluff-Eureka	Granted	Feb. 5, 1923
11605	8559	C. H. Eckles et al	To operate baggage express service, Oroville-Stirling	Granted	Feb. 6, 1923
11609	8482	H. E. Shrainer	To operate truck service, Los Angeles-Burbank-Van Nuys	Granted	Feb. 3, 1923
11617	8441	W. A. Gillett	To operate passenger, express service, Colusa-Grimes	Granted	Feb. 9, 1923
11632	8627	George Wm. Smith	To operate passenger, freight and express, Harley Ranch-Blue Nose	Denied	Feb. 9, 1923
11633	8639	Roy Morey, H. C. Venable	To transfer operative rights, Los Angeles-Artesia	Granted	Feb. 9, 1923
11634	8641	L. A. Misner-Pete Winfield et al	To sell auto truck line, Los Gatos-Oakland	Granted	Feb. 9, 1923
11635	8643	United Stages, Inc., S. T. Robinson	To transfer operative rights, El Centro-Seeley	Granted	Feb. 9, 1923
11637	8659	Jacob E. Deroo	To operate truck service, Redland-San Pedro	Granted	Feb. 9, 1923
11638	8631	Central Garage	To operate truck service, Redlands-San Pedro	Granted	Feb. 9, 1923
11639	8660	Enos J. Woodward	To operate truck service, Redlands-San Pedro	Granted	Feb. 9, 1923
11658	8580	Chas. B. Holbrook et al	To operate stage service, Los Angeles, Florence Ave.-Elizabeth St.	Granted	Feb. 13, 1923
11676	8633	Phillip Noce	To operate passenger, baggage service, Coulterville-Kainsley	Granted	Feb. 19, 1923
11681	8564	Frank L. Selva and Son	To operate freight service, Marysville-Downieville	Denied	Feb. 20, 1923
11682	8540	Geo. S. Jones and Co.	To operate passenger service, Petaluma-Napa	Denied	Feb. 20, 1923
11686	8603	Hanford M. Olsen-Frank Ward	To transfer auto stage business	Granted	Feb. 20, 1923
11687	8637	United Stages, Inc.	To operate passenger bus service, Niland-Calipatria-Brawley	Granted	Feb. 20, 1923
11688	8653	E. D. Lavine-George A. Scott et al	To sell auto stage line, Susanville-Doyle	Granted	Feb. 20, 1923
11694	8677	G. E. Galbreath-L. A. Galbreath	To sell one-half interest auto truck service, Los Angeles-Chino	Granted	Feb. 20, 1923
11696	8688	Atlantic and S. P. Transfer Co.	To sell passenger, express line to James Jenkins, Los Angeles and Santa Monica	Granted	Feb. 20, 1923
11698	8693	H. E. Ekstrom et al., P. W. Dongon et al	To sell passenger line, Santa Rosa-Calistoga	Granted	Feb. 20, 1923
11703	8673	Chas. Bouchord	To operate passenger, freight service, Litchfield-Standish	Granted	Feb. 21, 1923
11704	8678	Robert C. Dear	To discontinue stage service, McKittrick	Granted	Feb. 21, 1923
11706	8687	White Star Auto Stages et al	To abandon stage service, San Diego-El Centro	Granted	Feb. 21, 1923
11707	8690	Geo. M. Kumball et al.-"Alturas Bieber Stage Line"	To operate stage service, Alturas-Bieber	Granted	Feb. 21, 1923
11708	8697	Walter Yager-H. M. Edbert	To sell stage line, Quincy-Meadow Valley	Granted	Feb. 21, 1923
11710	8351	Robt. Nicholson et al	To transfer truck service to B. H. Christian	Granted	Feb. 23, 1923
11711	8682	A. E. Blane	To abandon auto freight service, San Diego-Julian	Granted	Feb. 23, 1923
11712	8708	W. C. Lawrence	To operate passenger service, Chester-Drakesbad	Granted	Feb. 23, 1923
	8709	W. C. Lawrence	To operate freight service, Crescent Mills and Chester	Granted	Feb. 23, 1923
11713	8707	L. S. Neighbors-E. E. Rugg	To sell stage line, Willits-Hearsh	Granted	Feb. 23, 1923

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TABLE C. DISMISSALS (CASES).

Dec. No.	Case No.	Litigants	Date
10678	1604	Motor Transit Company vs. Pacific Electric Railway	July 7, 1922
10683	1746	R. H. Ramsey et al. vs. Town of Fowler et al.	July 8, 1922
10684	1779	T. O. Hanrahan vs. Southern Pacific Company	July 8, 1922
10849	1756	Carmel Development Company vs. Monterey County Water Works	Aug. 10, 1922
10881	1591	Hodge, Mershon & Rose vs. C. W. Hayes	Aug. 17, 1922
10968	1787	C. Bolton et al. vs. Olson & Rough et al.	Sept. 7, 1922
10988	1794	Geo. Teaford vs. Olson & Rough	Sept. 14, 1922
11013	1782	B. L. Halberson vs. C. N. Gaylord	Sept. 21, 1922
11001	1775	Frank Davies vs. F. B. De Launey	Oct. 7, 1922
11135	1811	Kurt E. Fritsch vs. Pacific Telephone and Telegraph Company	Oct. 18, 1922
11445	1856	J. C. Casa vs. Pacific Telephone and Telegraph Company	Dec. 29, 1922
11486	1857	A. Groves vs. Pacific Telephone and Telegraph Company	Jan. 9, 1923
11523	1394	Southern Pacific Company et al. vs. E. W. Bingaman	Jan. 16, 1923
11538	1854	Kenneth Lyford vs. Pacific Telephone and Telegraph Company	Jan. 22, 1923
11553	1388	Six-Minute Ferry vs. Rodeo-Vallejo Ferry Company	Feb. 10, 1923
11166	1818	John Almeda vs. Fred Miles ("Pullman Water Company")	Oct. 25, 1922
11169	1822	Joe Pickford vs. Pacific Telephone and Telegraph Company	Oct. 26, 1922
11699	1690	Hugh T. Dykes vs. California Telephone and Light Company	Feb. 20, 1923
11195	1724	T. A. Stewart, deceased, Estate of, vs. A. L. Richardson ("Pierce-Arrow Stage Company")	Nov. 3, 1922
11190	1738	S. A. Gebhart vs. Pacific Telephone and Telegraph Company	Nov. 3, 1922
11200	1799	Oganesoff & Oskenoff vs. H. C. Venable	Nov. 6, 1922
11206	1831	Benj. Tonini vs. Henry Minetti ("Coast Truck Company")	Nov. 6, 1922
11221	1816	Fitzgerald F. Marx vs. Pacific Telephone and Telegraph Company	Nov. 10, 1922
11222	1826	Charles M. Fryer vs. Pacific Telephone and Telegraph Company	Nov. 10, 1922
11231	1762	Railroad Commission vs. Light and Power Utility of Banning	Nov. 14, 1922
11232	1681	Railroad Commission vs. William Hoosear	Nov. 14, 1922
11238	1885	Coast Rock and Gravel Co. vs. Southern Pacific Co. et al.	Nov. 14, 1922
11273	1834	Herman F. Hiller vs. Pacific Telephone and Telegraph Company	Nov. 23, 1922
11274	1835	Meckel & Schaeffer vs. Pacific Telephone and Telegraph Company	Nov. 23, 1922
11305	1753	California Transporation Co. vs. Netherlands Transportation Co.	Dec. 1, 1922
11306	1754	Southern Pacific Co. vs. Netherlands Transportation Co.	Dec. 1, 1922
11344	1824	J. F. Driscal & Son et al. vs. Pacific Telephone and Telegraph Co.	Dec. 11, 1922
11347	1838	Mrs. J. W. Brown vs. Pacific Telephone and Telegraph Company	Dec. 11, 1922
11389	1365	City of South Pasaedna vs. Pacific Electric Railway Company	Dec. 22, 1922
11440	1348	U. N. Slater, Inc., et al. vs. Southern Pacific Company	Dec. 29, 1922
11441	1404	Pacific Coast Steel Company vs. Southern Pacific Company et al.	Dec. 29, 1922
11442	1411	Ventura Refining Company vs. Walter D. Hines, Director General of Railroad Administration, et al.	Dec. 29, 1922
11443	1850	A. C. Wilson vs. Pacific Telephone and Telegraph Company	Dec. 29, 1922
11444	1853	B. Fredericks vs. Pacific Telephone and Telegraph Company	Dec. 29, 1922

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Dec. No.	App. No.	Applicant	Nature of proceeding	Date
10679	7629	Oneway Parcel Delivery Company	To operate parcel delivery service	July 7, 1922
10701	7766	Harland O. Martin	To operate passenger service	July 12, 1922
10719	5998	City of Bakersfield	To construct grade crossing	July 15, 1922
10724	7938	Dante Oneto	To operate passenger service	July 19, 1922
10729	7651	William D. Feuner et al.	To operate passenger service	July 19, 1922
10745	7612	Lloyd Ullom	To operate passenger service	July 20, 1922
10746	7949	Alonis Frandrup	To operate freight and mail service	July 20, 1922
10790	7935	Fred Daggett	To operate freight service, Eureka-Korbel	July 27, 1922
10847	8001	L. S. Hull	To carry freight by stage line	Aug. 10, 1922
10848	8124	Atchison, Topeka and Santa Fe Railway Company	To extend tracks, Riverside	Aug. 10, 1922
10866	7978	C. L. Simonds et al.	Express service, Salinas	Aug. 15, 1922
10867	6889	Southern Pacific Company	Closing Oak, Sacramento, Main and Locusts streets, Lodi	Aug. 15, 1922
10879	6868	Consolidated Canal Company	To increase water rates	Aug. 17, 1922
10880	7325	Walter G. Boles et al.	Truck service	Aug. 17, 1922
10914	7847	Harold Frasher	Motor truck service	Aug. 25, 1922
10949	7428	Merchants Ice and Cold Storage Company	To increase storage rates	Sept. 2, 1922
10950	8041	Clyde S. Dayton	Passenger and freight stage service	Sept. 2, 1922
10951	7900	Edwin A. Boehme	Passenger and freight service	Sept. 2, 1922
10969	8094	Motor Transit Company	To reroute portion of its passenger and express service	Sept. 7, 1922
10970	8052	Casini Bros.	To operate cream truck service	Sept. 7, 1922
10971	8093	Motor Transit Company	To extend service	Sept. 7, 1922
10991	7704	Associated Water Company	To increase rates	Sept. 16, 1922
10999	7970	E. P. Tallon and J. A. Draffen	To transfer freight and express service	Sept. 18, 1922
11003	8075	Oakland, Turlock and Modesto Automotive Freight and Express Line	Motive truck service between Turlock and Oakland	Sept. 19, 1922
11004	8031	The Lee Film Delivery Service	Film delivery service	Sept. 19, 1922
11025	8238	David Barry	To construct grade crossing	Sept. 26, 1922
11052	8180	Albert Johnson	Operate passenger service	Oct. 3, 1922
11059	8280	Pacific Electric Railway Company	Construct spur track	Sept. 5, 1922
11090	8233	Southern Pacific Company	Kern County	Oct. 7, 1922
11134	6195	Board of Supervisors of Imperial County	To construct grade crossing over Southern Pacific	Oct. 18, 1922
11150	7668	James W. Grey	To sell auto freight and express line, San Francisco-Pescadero	Oct. 20, 1922
	7924	"Coast Side Transportation Company"	To sell freight and express line	Oct. 20, 1922
11159	8081	Charles Mueller	To increase water rates	Oct. 24, 1922
11164	7380	Fletcher & Tremble	To lease operative rights	Oct. 25, 1922
11199	8097	Palmer & Schuster	To operate passenger service, South Pasadena-Los Angeles	Nov. 6, 1922
11229	8046	Associated Telephone Company	Determination of franchise rights	Nov. 13, 1922

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11252	6045	Coast Counties Gas and Electric Company	To fix electric rates	Nov. 18, 1922
11253	6303	Santa Maria Gas Company	To abandon certain gas service	Nov. 18, 1922
11275	8327	A. L. Bland	To operate passenger service, Holtville-Yuma Bridge	Nov. 23, 1922
11288	8287	Van Nuys Investment Company et al., Kate Van Nuys Page	To sell water system	Nov. 27, 1922
11326	6235	O. A. Moon et al.	To operate passenger service, San Jose and Sacramento	Dec. 5, 1922
11327	6577	Ed. Royce	To operate freight service, Brawley-Calexico	Dec. 5, 1922
11328	3234	County of Alameda (order to show cause)	Separation of grades at the crossing of county road, Altamont	Dec. 5, 1922
	3235	County of Alameda (order to show cause)	Separation of grades at the crossing of county road from Livermore to Altamont	Dec. 5, 1922
11329	6195	Board of Supervisors of Imperial County (order rescinding prior order)	To construct crossing at grade over Southern Pacific tracks between Riverside and Imperial counties	Dec. 5, 1922
11346	8174	Coast Truck Line	To operate truck service, El Cajon-Los Angeles	Dec. 5, 1922
11358	8382	Henry Ninetti et al. "(Coast Truck Line")	Transfer of operative rights, San Luis Obispo and Cambria	Dec. 13, 1922
11387	7864	Allen Nelson	To operate freight and passenger service, San Miguel and Parkfield	Dec. 22, 1922
11388	8266	Jacob J. Reppert	Transfer operative rights, Stonyford-Willows	Dec. 22, 1922
11436	6618	San Rafael Freight and Transportation Company	To operate freight and express service, San Francisco and Sebastopol	Dec. 29, 1922
11437	8169	H. C. Leavitt	To operate freight service, Sacramento-Grass Valley	Dec. 27, 1922
11438	8245	Moorpark Farmers Water Company	To issue additional stock	Dec. 29, 1922
11439	8411	County of Siskiyou	Construct crossing at grade over Southern Pacific tracks near Dunsmuir	Dec. 29, 1922
11449	6393	Western Motor Transport Company	Operate stage service, Antioch-Sacramento	Dec. 29, 1922
11450	6265	Star Auto Stage Company	Operate passenger service, Sunol-San Jose	Dec. 29, 1922
11452	6273	Western Motor Transport Company	Operate stage service, Oakland-Stockton	Dec. 29, 1922
11453	6225	Star Auto Stage Company	Operate stage service, Oakland-Stockton	Dec. 29, 1922
11470	7919	Los Angeles and Salt Lake Railroad Company	Construct crossing at grade, Baker avenue, Los Angeles County	Jan. 1, 1923
11480	6536	A. N. Reid	To operate auto truck service, Burbank-Los Angeles	Jan. 8, 1923
11504	5237	California Telephone and Light Company	Increase rates and charges	Jan. 12, 1923
11509	8335	M. R. Payton	Operate truck service, Los Angeles and Lompoc	Jan. 15, 1923
11522	8206	J. A. Montgomery	Operate freight service, Clearwater-Long Beach	Jan. 16, 1923
11545	8401	F. A. Sullivan ("Sullivan's Tia Juana Stage")	Operate stage service, San Diego-Tia Juana	Jan. 23, 1923
11601	8515	Lewis Hansen	Operate passenger service, Ukiah-Potter Valley	Feb. 6, 1923
11602	8535	C. D. Gulick	Operate stage service, Los Angeles-Sunland	Feb. 6, 1923
11628	7817	Rodeo-Vallejo Ferry Company	Execute promissory note	Feb. 7, 1923
11678	8596	B. F. Morris	Operate freight service, Santa Clara-Oakland	Feb. 19, 1923
11679	8644	S. H. Graham	Auto stage service, Petaluma-Sebastopol	Feb. 19, 1923

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			Location	Action	Date
10682	7860	County of Stanislaus (A. T. and Santa Fe)	Hughson	Granted	July 8, 1922
10685	7333	City of Sanger (Southern Pacific Co.)	Sixth St.	Granted	July 10, 1922
10688	8014	Southern Pacific Co. (County of Kern)	Between Lervo and Saco	Granted	July 10, 1922
10689	8015	A. T. and Santa Fe Ry. Co. (County of Kern)	Shafter	Granted	July 10, 1922
10690	8021	Southern Pacific Co. (County of Kern)	Between Maguden and Sivert	Granted	July 10, 1922
10704	7878	County of Los Angeles (L. A. and Redondo Ry. Co.)	Vernon Ave.	Granted	July 13, 1922
10706	7880	A. T. and Santa Fe Ry. Co. (Inglewood)	Damask Ave.	Granted	July 14, 1922
10715	8028	Southern Pacific Co. (County of Kern)	Between Tehachapi and Cameron	Granted	July 15, 1922
10717	8043	Southern Pacific Co. (County of Sacramento)	Vicinity of Mayhew	Granted	July 15, 1922
10718	8044	Southern Pacific Co. (County of Los Angeles)	Alameda St.	Granted	July 15, 1922
10731	8053	Southern Pacific Co. (City of Los Angeles)	Twelfth St. and Railroad Ave.	Granted	July 20, 1922
10747	8073	A. T. and Santa Fe Ry. Co. (City of Fresno)	McKinley Ave.	Granted	July 21, 1922
10782	8070	Southern Pacific Co. (Town of Emeryville)	Seventh St.	Granted	July 25, 1922
10784	8089	A. T. and Santa Fe Ry. (City of Hemet)	Alessandro	Granted	July 25, 1922
10790	8080	Pacific Electric Co. (City of Newport Beach)	Central Ave.-Eighteenth St.	Granted	Aug. 1, 1922
10805	7738	County of Imperial (Holton Interurban Ry. Co.)	Between El Centro and Holtville	Granted	Aug. 1, 1922
10806	7892	County of San Luis Obispo (S. P.)	Capistrano	Granted	Aug. 1, 1922
10807	8102	Southern Pacific Co. (City of Fresno)	Kern St.	Granted	Aug. 1, 1922
10808	8103	A. T. and Santa Fe Ry. Co. (City of San Diego)	Trias St.	Granted	Aug. 1, 1922
10816	7850	City of Inglewood (A. T. and Santa Fe Ry.)	Stella St.	Granted	Aug. 3, 1922
10841	8115	Pacific Electric Ry. Co. (City of Long Beach and Southern Pacific Co.)	Pico Ave.	Granted	Aug. 10, 1922
10843	8134	San Diego and Arizona R. R. Co. (City of San Diego)	National City	Granted	Aug. 10, 1922
10859	8153	Hutchinson Lumber Co. (County of Butte)	Lumpkin-Cascade Rd.	Granted	Aug. 15, 1922
10860	8108	County of Los Angeles (Los Angeles Ry. Co.)	One Hundred Twelfth St.	Granted	Aug. 15, 1922
10861	7901	County of Merced (Southern Pacific)	Clark and Dutch Corner Rd.	Granted	Aug. 15, 1922
10862	8040	County of Los Angeles (Los Angeles and Salt Lake Ry.)	Otis Ave.	Granted	Aug. 15, 1922
10863	8150	Southern Pacific Co. (City of Oakland)	Forty-fifth and Forty-sixth Aves.	Granted	Aug. 15, 1922
10876	8049	Southern Pacific Co. (City of Palmdale)	Anaverda Ave.	Granted	Aug. 17, 1922
10890	7913	Los Angeles and Salt Lake R. R. Co. (A. T. and Santa Fe)	Lemon St.	Granted	Aug. 19, 1922
10898	8155	Pacific Electric Ry. Co. (County of Los Angeles)	Nr. Santa Monica Blvd. and Cachneuga Ave.	Granted	Aug. 23, 1922
10911	8181	A. T. and Santa Fe (City of San Diego)	Belt and Juniper Sts.	Granted	Aug. 25, 1922
10917	8051	County of Sutter (Southern Pacific Co.)	Near By-Pass	Granted	Aug. 26, 1922
10918	8085	A. T. and Santa Fe Ry. Co. (City of San Bernardino)	Seventh St.	Granted	Aug. 26, 1922
10922	7454	Los Angeles Investment Co. (A. T. and Santa Fe Ry. Co.)	Los Angeles County	Granted	Aug. 31, 1922
10928	8139	People of State of California (Southern Pacific Co.)	Near Redding	Granted	Aug. 31, 1922
10941	8192	Southern Pacific Co. (City of Calexico)	Roosevelt Ave. and W. Railroad Blvd.	Granted	Sept. 2, 1922
10953	7658	People of State of California (Southern Pacific Co.)	Riverside County, north of Indio	Granted	Sept. 6, 1922

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10958	8202	A. T. and Santa Fe Ry. Co. (County of Los Angeles)	Fifty-third, Fifty-fourth and Fifty-fifth St.	Granted	Sept. 7, 1922
10960	8214	A. T. and Santa Fe Ry. Co. (City of Vernon)	Twenth-ninth St.	Granted	Sept. 7, 1922
10961	8215	Southern Pacific Co. (City of Vernon)	Center Ave.	Granted	Sept. 7, 1922
10966	8197	Southern Pacific Co. (City of Sacramento)	Thirteenth St.	Granted	Sept. 7, 1922
10967	8158	Petaluma and Santa Rosa Ry. Co. (City of Petaluma)	Sonoma County	Granted	Sept. 7, 1922
10975	8222	A. T. and Santa Fe Ry. Co. (City of Pittsburg)	County Highway	Granted	Sept. 8, 1922
10985	8230	Western Pacific Ry. Co. (City of Sacramento)	Fourth, Fifth and Sixth Sts.	Granted	Sept. 14, 1922
10989	7889	City of Huntington Beach (Southern Pacific Co.)	Clay St.	Granted	Sept. 16, 1922
	8248	County of Orange (Southern Pacific Co.)	Clay St., Huntington Beach	Granted	Sept. 16, 1922
10995	8090	Southern Pacific Co. (City of Los Angeles)	Alameda and Sixth Sts.	Granted	Sept. 18, 1922
11014	8256	Southern Pacific Co. (City of Los Angeles)	Alameda, Fourth and Vincent Sts.	Granted	Sept. 26, 1922
11015	8131	Southern Pacific Co. (City of Los Angeles)	Alameda St.	Granted	Sept. 26, 1922
11041	8179	County of Sacramento (Northern Electric Ry. Co.)	Eleanor Ave.	Granted	Sept. 29, 1922
11043	8209	Southern Pacific Co. (City of Burbank)	Olive Ave.	Granted	Oct. 2, 1922
11045	8261	Pacific Electric Ry. Co. (County of Los Angeles)	Long Beach Ave. and 114th St.	Granted	Oct. 2, 1922
11056	8178	County of Sacramento (California Central Traction Ry. Co.)	Near Terry	Granted	Oct. 5, 1922
11106	8313	A. T. and Santa Fe Ry. Co. (City of South Pasadena)	El Centro St.	Granted	Oct. 14, 1922
11116	8314	A. T. and Santa Fe Ry. Co. (City of Vernon)	Twenty-sixth St.	Granted	Oct. 18, 1922
11121	8177	County of Sacramento (Southern Pacific)	Ben Ali-Walerga	Granted	Oct. 18, 1922
11122	8234	Southern Pacific Co. (City of Santa Cruz)	Quintana St.	Granted	Oct. 18, 1922
11124	8270	Tidewater Southern Ry. Co. (San Joaquin County)	Manteca Highway	Granted	Oct. 18, 1922
11125	8316	A. T. and Santa Fe Ry. Co. (City of Visalia)	South East St.	Granted	Oct. 18, 1922
11126	8334	Holmes Eureka Lumber Co. (County of Humboldt)	Fortuna-Loleta County Rd.	Granted	Oct. 18, 1922
11167	8337	Southern Pacific Co. (City of Sacramento)	Eighteenth St.	Granted	Oct. 26, 1922
11186	8333	Southern Pacific Co. (Pacific Coast Ry. Co.)	Town of Guadalupe	Granted	Oct. 31, 1922
11190	8344	Pacific Electric Ry. Co. (City of San Bernardino)	Rialto Ave.-F. St.	Granted	Oct. 31, 1922
11191	8360	Southern Pacific Co. (City of Buenaventura)	Santa Clara-Elder	Granted	Oct. 31, 1922
11193	6194	County of Imperial (Southern Pacific Co.)	Wister	Granted	Oct. 31, 1922
11201	8370	A. T. and Santa Fe Ry. (County of Los Angeles)	Fifty-seventh St.	Granted	Nov. 6, 1922
11209	8255	Pacific Electric Ry. Co. (Los Angeles and Salt Lake Ry. Co.)	City of Long Beach	Granted	Nov. 10, 1922
11216	8228	Southern Pacific Co. (City of Vernon)	East Twenty-fifth St. and Alameda St.	Granted	Nov. 10, 1922
11226	8377	Southern Pacific Co. (City of Oakland)	Beck St.	Granted	Nov. 13, 1922
11230	8403	San Francisco-Sacramento Ry. Co. (City of Sacramento)	Certain alley	Granted	Nov. 14, 1922
11250	8393	A. T. and Santa Fe Ry. Co. (Riverbank Water Co.)	Town of Riverbank	Denied	Nov. 18, 1922
11251	8407	Southern Pacific Co. (County of Tulare)	Vicinity of Visalia	Granted	Nov. 18, 1922
11270	7483	Pacific Electric Ry. Co. (County of San Bernardino)	Rathbun-Sterling Ave.	Granted	Nov. 23, 1922
11280	8300	Pacific Southwestern Ry. (City of Lompoc)	Certain avenues, streets and alleys	Granted	Nov. 27, 1922
11282	8415	Southern Pacific Co. (County of Siskiyou)	Hornbrook	Granted	Nov. 27, 1922
11283	8417	Southern Pacific Co. (City of Calexico)	Birch and Grant Sts.	Granted	Nov. 27, 1922
11284	8433	Hutchison Lumber Co. (County of Butte)	Mooretown-Lumpkin County Rd.	Granted	Nov. 27, 1922
11285	8434	Pacific Electric Ry. Co. (City of Glendora)	Grand Ave.	Granted	Nov. 27, 1922
11297	8410	Southern Pacific Co. (City and County of San Francisco)	Ritch St.	Granted	Dec. 1, 1922

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11310	8304	City of San Diego (A. T. and Santa Fe Ry.)	Bean St.	Granted	Dec. 5, 1922
11318	8446	Southern Pacific Co. (Town of Valley Spring)	California St. and County Rd.	Granted	Dec. 5, 1922
11319	8458	Los Angeles and Salt Lake Ry. Co. (A. T. and Santa Fe-Pacific Electric Co.)	City of Fullerton	Granted	Dec. 5, 1922
11328	3234	County of Alameda (Central Pacific Ry. Co.)	Near Altamont	Granted	Dec. 5, 1922
	3235	County of Alameda (Central Pacific Ry. Co.)	Southwest of Altamont	Granted	Dec. 5, 1922
11329	6195	County of Imperial (Southern Pacific Ry.)	Between Imperial and Riverside counties	Granted	Dec. 5, 1922
11340	8163	Los Angeles and Salt Lake Ry. Co. (City of Los Angeles)	Jaboneria Rd.	Granted	Dec. 11, 1922
11341	8453	Southern Pacific Co. (City of Oakland)	Ninety-eighth Ave. and Almond St.	Granted	Dec. 11, 1922
11342	8455	Southern Pacific Co. (City and County of San Francisco)	Stanford St.	Granted	Dec. 11, 1922
11360	8318	County of San Diego (A. T. and Santa Fe Ry.)	Arctic St., near San Marcos	Granted	Dec. 15, 1922
11362	2987	L. A. and Salt Lake Ry. Co. (A. T. and S. F. Ry. Co., Pac. Elec. Ry. Co.)	Fullerton	Granted	Dec. 15, 1922
11364	7931	Pacific Electric Ry. Co. (City of Los Angeles)	Brush Canyon line, Franklin Ave. to end	Granted	Dec. 15, 1922
11365	407	Vallejo and Northern Ry. Co. (Southern Pacific Co.)	Suisun	Granted	Dec. 15, 1922
11372	8295	City of Inglewood (A. T. and Santa Fe)	City of Inglewood	Granted	Dec. 22, 1922
11377	8481	Western Pacific Ry. Co. (City of Hayward)	A St.	Granted	Dec. 22, 1922
11378	8497	A. T. and Santa Fe Ry. (City of Parlier)	Fresno, Tulare and Tuolumne Sts.	Granted	Dec. 22, 1922
11385	8177	County of Sacramento (Southern Pacific Co.)	Between Ben Ali and Walerga	Granted	Dec. 22, 1922
11425	7312	Pacific Electric Ry. Co. (County of Los Angeles)	Highland Ave.-Santa Monica Blvd.	Granted	Dec. 29, 1922
11439	8411	County of Siskiyou (Southern Pacific Co.)	County Rd. near Dunsmuir	Granted	Dec. 29, 1922
11458	8486	Pacific Gas and Electric Co. (City of Sacramento)	Riverside Rd.	Granted	Jan. 3, 1923
11461	8514	Southern Pacific Co. (City and County of San Francisco)	Several streets	Granted	Jan. 3, 1923
11463	3139	Western Pacific Ry. Co. (Counties of Alameda and Santa Clara, City of San Jose, Southern Pacific Co., Peninsula Ry. Co., San Jose Railroads)	Counties of Alameda and Santa Clara	Granted	Jan. 3, 1923
11470	7919	Los Angeles and Salt Lake Ry. Co. (County of Los Angeles)	Baker Ave.	Dismissed	Jan. 6, 1923
11495	8542	Pacific Electric Co. (City of Newport Beach)	Bay Ave.	Granted	Jan. 12, 1923
11496	8554	Pacific Electric Ry. Co. (City of Glendale)	Brand Blvd. and Broadway	Granted	Jan. 12, 1923
11497	8557	A. T. and Santa Fe. Ry. (City of Stockton)	Van Buren and Taylor Sts.	Granted	Jan. 12, 1923
11503	2113	Southern Pacific Co. (County of San Joaquin)	Between Lyoth and Yarmouth	Granted	Jan. 12, 1923
11513	8243	Petaluma and Santa Rosa Ry. (City of Santa Rosa)	Second St.	Granted	Jan. 16, 1923
11514	8502	Southern Pacific Co. (Market Street Ry.)	Second and De Boom Sts., San Francisco	Granted	Jan. 16, 1923
11515	8569	Southern Pacific Co. (City of Sacramento)	J St.	Granted	Jan. 16, 1923
11516	8495	Western Pacific Ry. (Market Street Ry. Co.)	Brannan St., San Francisco	Granted	Jan. 16, 1923
11517	8560	Southern Pacific Co. (City of Los Angeles)	Alameda St.	Granted	Jan. 16, 1923
11526	8384	City of Glendale (Pacific Electric Ry. Co.)	Gardena Ave.	Granted	Jan. 18, 1923
11528	8558	A. T. and Santa Fe Ry. (City of Merced)	Twenty-fourth St., P and Q Sts.	Granted	Jan. 18, 1923
11536	8585	A. T. and Santa Fe Ry. (City of Fullerton)	Walnut, Highland and Malden Aves.	Granted	Jan. 22, 1923
11537	8586	Southern Pacific Co. (City of San Fernando)	Nadeau and Meyer Sts.	Granted	Jan. 22, 1923

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11560	8567	Central Cal. Traction Co. (Pac. Gas and Elec. Co., S. P. Co., W. P. Co.)	City of Sacramento	Granted	Jan. 25, 1923
11561	8576	A. T. and Santa Fe Ry. Co. (City of Arcadia)	Huntington Dr.	Granted	Jan. 25, 1923
11576	8606	A. T. and Santa Fe Ry. Co. (City of Los Angeles)	Sacramento St.	Granted	Feb. 1, 1923
11578	8610	A. T. and Santa Fe Ry. Co. (City of Reedley)	Alley between South Ave. and 16th St.	Granted	Feb. 3, 1923
11581	8590	Southern Pacific Co. (County of Kern)	County Rd. in vicinity of Jasmin	Granted	Feb. 3, 1923
11585	8619	Northwestern Pacific Ry. Co. (County of Sonoma)	Roberts Ave.	Granted	Feb. 3, 1923
11590	8531	Pacific Electric Ry. Co. (City of Los Angeles)	Fifth St., San Pedro	Granted	Feb. 6, 1923
11630	8593	Southern Pacific Co. (County of Fresno)	California Ave., near City of Fresno	Granted	Feb. 8, 1923
11647	8616	A. T. and Santa Fe Ry. Co. (City of Vernon)	Twenty-seventh St.	Granted	Feb. 10, 1923
11648	8617	A. T. and Santa Fe Ry. Co. (City of Vernon)	Thirtieth St.	Granted	Feb. 10, 1923
11649	8171	County of Fresno (Southern Pacific Co.)	Placer Ave.	Denied	Feb. 10, 1923
11651	8630	Western Pacific Ry. (City of Oakland)	Harrison St.	Granted	Feb. 10, 1923
11659	8629	Southern Pacific Co. (City of Oakland)	Seventh St. and Sixth Ave.	Granted	Feb. 13, 1923
11669	8489	County of Los Angeles (A. T. and Santa Fe Ry. Co.)	Walker St.	Granted	Feb. 16, 1923
11670	8663	Southern Pacific Co. (City of Marysville)	J St., between Eighth and Ninth Sts.	Granted	Feb. 16, 1923
11673	8392	County of Orange (Southern Pacific Ry. Co.)	Wilson St.	Granted	Feb. 16, 1923
11683	8496	Pacific Electric Ry. Co. (County of Los Angeles)	At or near Los Nietos	Granted	Feb. 20, 1923
11685	8575	Pacific Electric Ry. Co. (Southern Pacific Co. and Southern Pacific Ry. Co.)	El Moro Station	Granted	Feb. 20, 1923
11689	8656	Sacramento Northern Ry. (Town of Meridian)	Third St.	Granted	Feb. 20, 1923
11690	8657	Sacramento Northern Ry. (Western Pacific Ry..)	Yard limits	Granted	Feb. 20, 1923
11693	8676	Western Pacific Ry. Co. (Sacramento Northern Ry.)	Town of Marysville	Granted	Feb. 20, 1923
11695	8684	A. T. and Santa Fe Ry. Co. (City of Los Angeles)	Imperial St.	Granted	Feb. 20, 1923
11697	8691	Southern Pacific Co. (City of San Leandro)	Alvarado St.	Granted	Feb. 20, 1923
11705	8683	Southern Pacific Co. (City of King)	First St.	Granted	Feb. 21, 1923

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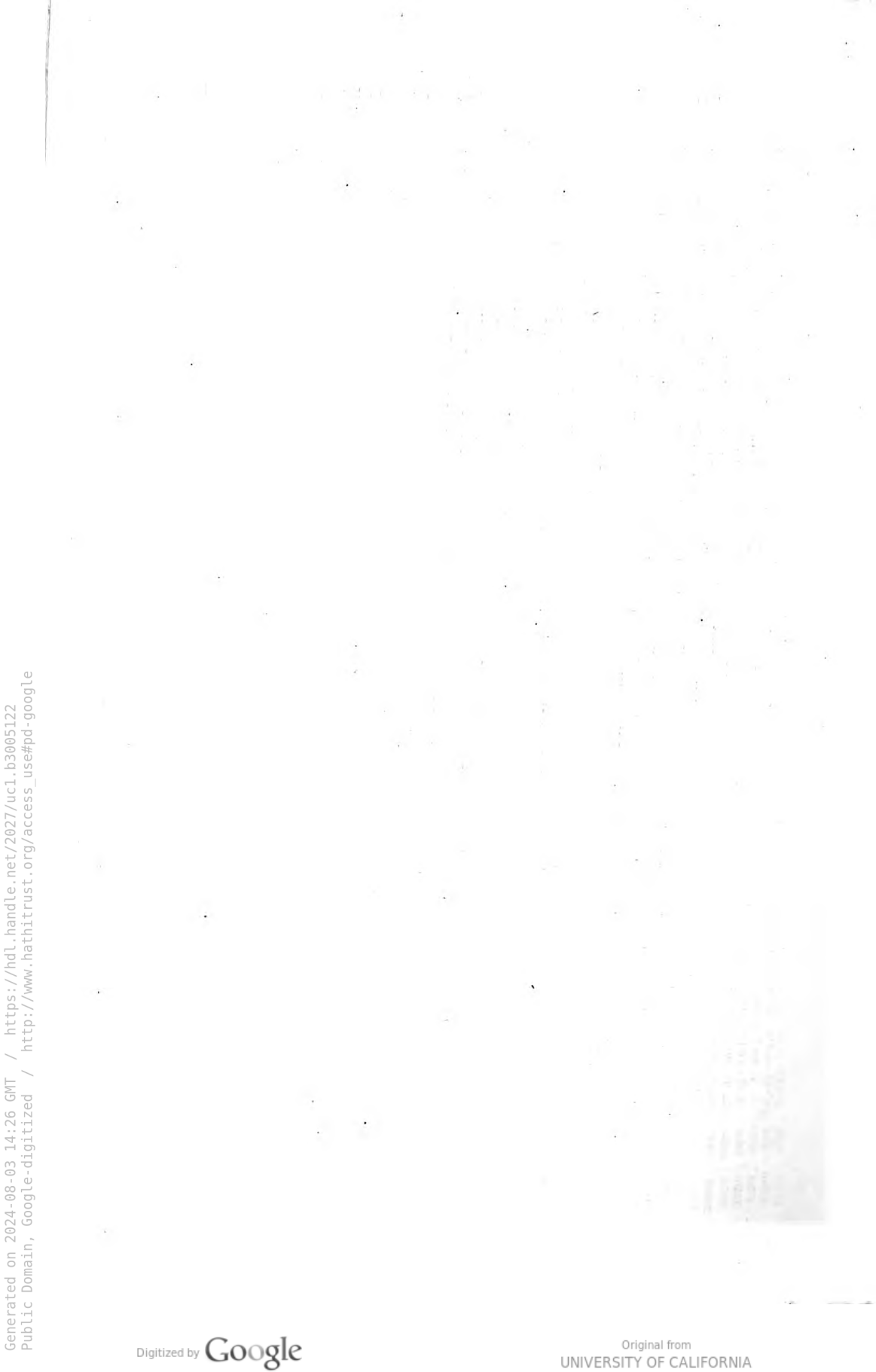

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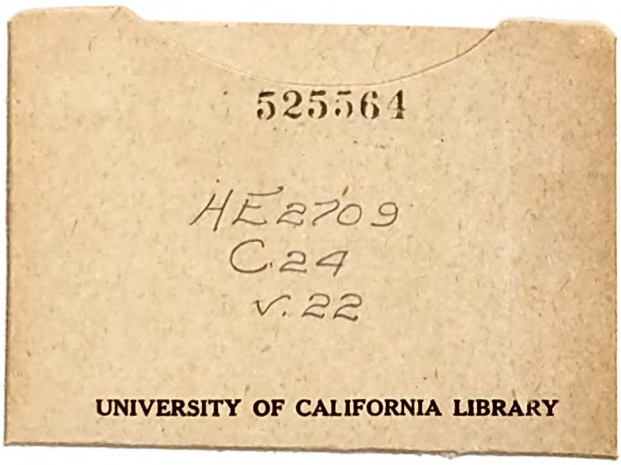
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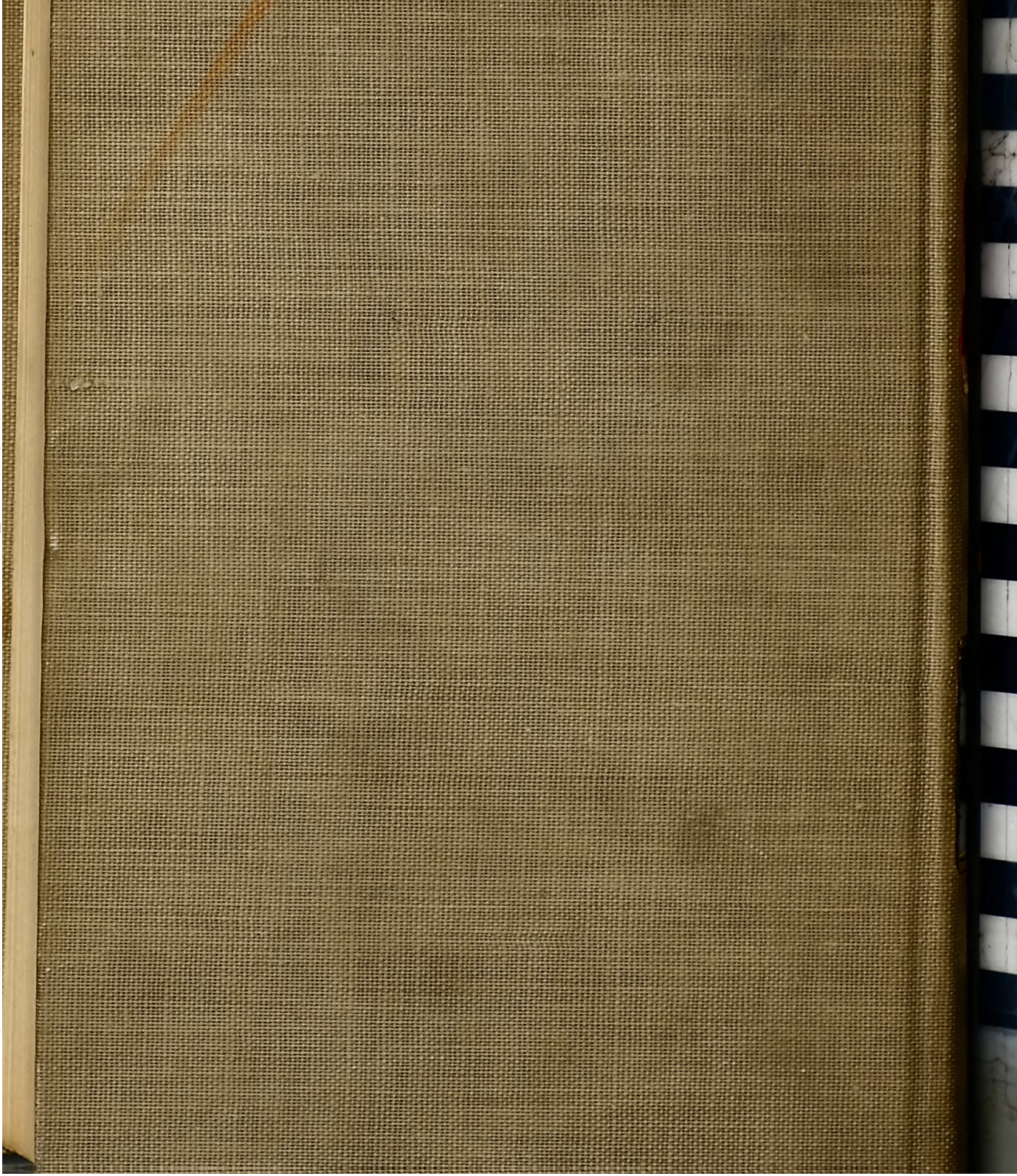

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